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COURT OF GENERAL SESSIONS OF THE PEACE

IN AND FOR THE COUNTY OF NEW YORK

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PART V.

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- x

THE PEOPLE OF THE STATE OF NEW YORK: Before

-against- : HON. WARREN W. FOSTER, J.,

GREGORIO GIORDANO. : and a jury.

- x

New York, Wednesday, October 15th, 1913.

THE DEFENDANT IS INDICTED FOR MURDER IN THE FIRST DEGREE

INDICTMENT FILED SEPTEMBER 19th, 1913.

Appearances:-

ISIDOR WASSERVOGEL, ESQ., Assistant District-Attorney

3 64 Deacon Murphy Esq " " "

For the People.

S. A. SINGERMAN, ESQ.,

For the Defendant.

(A jury is duly examined on the voir dire, and sworn).

The Court then admonished the jury, in accordance with Section 415 of the Code of Criminal Procedure, and adjourned this case until to-morrow, Thursday, October 16th, 1913, at 2 P.M.

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THE PEOPLE,ETC/ vs. GREGORIO GIORDANO

New York, Thursday, October 16th, 1913.

T R I A L C O N T I N U E D

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

Isidor Wasservogel, Esq., and

Deacon Murphy, Assistant District-Attorneys

For the People

S. A. Singerman, Esq.,

For the Defendant.

Mr. Murphy opened the case to the jury on behalf of the People, as follows:

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

This defendant, as you know, stands indicted for the crime of murder in its first degree. The deceased was a woman, the wife of this defendant. At this stage of the case it is proper for the District-Attorney to outline to you but briefly the facts which he intends to prove and on which he expects to receive at your hands a verdict of guilty.

In the first instance, let me call to your attention that this is a case of what is known as circumstantial evidence. The People will not call before you a single witness who will testify to the fact that he or she saw an assault committed upon the deceased by this defendant, but at the conclusion of our case we feel that we will be

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justified, from the chain of circumstances which will have been welded here before you, in asking from you a verdict.

The crime was committed on the 10th day of August, of this year, Sunday night, about between ten and ten-thirty in the evening.

The scene of the crime was a bit of woods on the northwesterly end of the Island, known as Cold Spring Grove.

This defendant, an Italian, who has been in this country about two years, first met the deceased about five months before her death.

He entered into a contract of marriage with her, and went through the civil ceremony at the City Hall.

Subsequent to that, there seemed to be some trouble. He did not want to complete the ceremony, and it was not until after the deceased, in company with some of her relatives, went to the Domestic Relations Court, where a summons was issued against this defendant for non-support, that a religious ceremony was gone through with.

About four months after the performance of the religious ceremony came this night of Sunday, August 10th.

We will show you that on that night the defendant and his wife visited numerous people. She was, as is the custom of Italian women on Sundays or gala days, dressed in her finest; she was jeweled; she wore distinctive articles of jewelry, and the witnesses who come here will

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show you that she was so dressed at that time. She was seen by numerous people up to about eight o'clock in the evening. The defendant waited for her outside of one house, and when she did not come out, he called up to her and asked her to come down right away, that he wanted to go and take that walk with her. She came down.

She was never again seen alive, but at half past ten her body was found in the Grove up at about 207th Street.

The testimony of the Coroners' physician will show you that death was due to a fracture of the skull.

Near the scene of that crime was found a shoe-last, an iron shoe-last such as is used by the Italians for home-cobbling. That shoe-last will be identified as the last which this defendant had used in his own home. That was stained with blood, and still adhering to it is a human hair. The body was lying when first discovered on its back, with the head practically severed from the body, the only support being that of the cervical vertebra.

The distinctive articles of articles of jewelry that I have mentioned were not found at the scene of the crime, but about five days later, subsequent to the arrest of this defendant, a search was made of his premises, and there was found a bag which the woman carried when she was last seen alive, and there also was found a comb which was one of her ornaments which she wore on her wedding

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day, a wedding present.

The defendant, on his arrest, was examined by Italian officers, and was examined by me, acting as an assistant-district-attorney, and he made to me, through an interpreter, a statement as to what happened on that night of August 10th.

He told me that he went home with his wife, and that he got up in the morning, Monday, August 11th, and went to work, leaving his wife behind him in the bed.

He told another officer, in a conversation with him, later, that the statement that he had made to me had not been the truth, but that, as a matter of fact, he was drunk that night, and when he got up in the morning he was late, and he hurried x out without looking to see where his wife was, whether she was in the room or not. He denied that he had had anything to do with the commission of this crime.

He, on the afternoon before the crime was committed, interviewed his nephew, and gave to the nephew his pay check, asking him to go to Brooklyn and there cash in the money that was due him, the defendant, on this pay check, and to hold it for him until he sent word that he wanted it. This he had never done before.

Despite the fact that his wife was missing on Monday, August 11th, he did not make an immediate report to the police, and, in fact, he made no investigation, as the

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testimony will show, until driven to it practically by the efforts of the brother of this deceased.

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We will bring before you a witness who will testify to the fact that, although this defendant says he was asleep on the night of Sunday, August 10th, and the morning of August 11th, on the morning of August 11th, about three o'clock, he saw burning in the defendant's room a light; that he had never seen such a light there before.

In conclusion, gentlemen, I want to urge you to pay particular attention to each of the various circumstances as it is brought before you, because, as I say, this is a case of circumstantial evidence.

(By request of Mr. Wasservogel, all witnesses are excluded from the courtroom).

F R E D E R I C K Z W I R Z, called as a witness on behalf of the People, being first duly sworn, testified as follows:

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DIRECT EXAMINATION BY MR. WASSERVOGEL:

Q What is your business? A Patrolman, Police Department.

Q And your principal duties in the Police Department are what? A Photographer.

Q You are one of the photographers of the Police Department? A Yes, sir.

Q And how long have you been a photographer? A In the

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Police Department? 474 3

Q In the Police Department? A Over ten years.

Q You have had considerable experience in making photographs? A Yes, sir.

Q Of all kinds? A Yes, sir.

Q Do you recognize this photograph I now show you, People's Exhibit No. 1 for Identification? A Yes, sir.

Q When was that made by you? A On the morning of August 11th, 1913.

Q And is this a correct representation of a body that you found? A Yes, sir.

Q Where? A Well, they call it Cold Spring Grove; it is about Two hundred and seventh Street.

Q Cold Spring Grove; that is around two hundred and seventh Street? A About 207th Street.

Q In the County of New York, of course? A Yes, sir.

MR. WASSERVOGEL: Cross-examine.

MR. SINGERMAN: No questions.

C H A R L E S H E N R Y M U H L E R, called as a witness on behalf of the People, being first duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. WASSERVOGEL:

Q What is your full name? A Charles Henry Muhler.

Q Where do you live? A 414 West 124th Street.

Q What is your business? A Grocer.

Q On the night of the 10th of August, were you in the

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neighborhood of 207th Street? A Yes. 474 4

Q At about what time? A Well, we come in with the boat at 9 o'clock, and we left the boat at 9:45.

Q Where did you leave your boat? A At Seeley's boathouse.

Q And how far is that from 207th Street? A The end of the road that leads right down through what they call Cold Spring Harbor.

Q And where did you walk after leaving your boat? A I took what they call the upper road.

Q And how far did you go through the upper road? A All the way.

Q How wide is the upper road? A About five or six foot.

Q Did you walk through the upper road alone, or in company with others? A No, there were eight of us altogether.

Q Did you have anything with you in particular? A We had a lantern, and I was pushing a baby carriage.

Q Did you see any body in that road at that time? A No.

Q That was a quarter of ten that night? A Yes, sir.

Q August 10th? A Yes, sir.

MR. WASSERVOGEL: Cross-examine.

MR. SINGERMAN: No questions.

F R A N K C L A R E N C E A L L E N, J R, called as a witness on behalf of the People, being first duly sworn, testified as follows:

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DIRECT EXAMINATION BY MR. WASSERVOGEL: 474 5

Q What is your full name? A Frank Clarence Allen, Jr.

Q Where do you live? A 2493 Valentine Avenue.

Q What is your business? A I am an engineer, in the employ of the Richmond Radiator Company.

Q On the night of August 10th of the present year, were you in the neighborhood of 207th Street? A Yes, sir.

Q At about what time? A About ten o'clock, or 10:30.

Q 10:30? A Yes, sir.

Q And where were you coming from? A I was coming from my motor boat.

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Q Where did you leave your motor boat? A At a place called Spuyten Duyvil Creek or Cold Spring Harbor.

Q And where were going to? A Going home.

Q And what road did you take, do you recall? A There is two paths. I took the upper path, the upper road.

Q Known as the upper road? A Yes, sir.

Q The path known as the upper road? A Yes, sir.

Q And were you alone? A Yes, sir.

Q How long is that road? Can you tell us about how long it is? A I should say at least four or five blocks.

Q And how wide? A It varys in width, but it is about 5 feet wide there.

Q And in going through that road, did you come across anything in particular? A Yes, sir.

Q What was it? A The body of a woman.

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Q Can you tell us how that body was lying? A Yes, sir, the woman was lying on her back.

Q Do you recognize that photograph that I show you now (handing witness People's Exhibit No. 1 for Identification)? A Yes, sir.

MR. SINGERMAN: Objected to. The photograph is not in evidence.

THE COURT: It is a preliminary question. Objection overruled.

MR. SINGERMAN: I take an exception.

A Yes, sir.

Q Is that a correct representation of the body as you found it there? A Yes, sir.

MR. WASSERVOGEL: The photograph is now offered in evidence.

MR. SINGERMAN: I object to the photograph going in evidence, as there is no evidence now that this photograph portrays the body of the deceased in this case. It has not been established.

BY THE COURT:

Q Did you look carefully, Mr. Witness, at the photograph shown you? A Yes, sir.

Q Is that a correct photograph of what you saw at the time and place to which you have testified? A Yes, sir.

Q And it was the body of the deceased? A Yes, sir.

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THE COURT: Received in evidence.

MR. SINGERMAN: If your Honor pleases, I still object, on the ground that this photograph, even though identified by the witness, does not show that it was the photograph of the deceased in this particular case. That has not been shown yet.

THE COURT: When I said the deceased, I meant the deceased in this particular case. You understood that, did you?

THE WITNESS: Yes, sir.

MR. SINGERMAN: I except to your Honor's ruling.

(Received in evidence and marked People's Exhibit No. 1), of this date .

MR. SINGERMAN: I still object, on the ground the photograph was not made on the day that the deceased came to her death.

THE COURT: That objection is overruled.

MR. SINGERMAN: I take an exception.

BY MR. WASSERVOGEL:

Q Now, upon seeing the body in this position, what, if anything, did you do? A I kept walking along the path and went down a side path; I know the woods there very well; and went down to Mr. Seely's cottage, and there were a couple of men there, but they were very much nervous -- made very nervous when I told them --

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Q You went for assistance? A I went for assistance, yes, sir.

Q Did you finally get hold of a police officer? A I went to the Reliance Boat Company and telephoned.

Q You telephoned to the police station? A Yes, sir.

Q Did you get in touch with a police officer? A I didn't do the telephoning myself, the watchman did the telephoning for me.

Q Finally you did come in touch with a policeofficer? A Yes, sir.

Q And do you know the name of that police officer? A No, sir, I do not remember.

Q It was Officer Hyman, you have seen him around here, a bout man? A Yes, sir.

Q And did you go back to the scene where this body had been found by you? A Yes, sir, I took them back and showed them where it was.

Q And how long did you remain there? A About 20 minutes or 30 minutes.

Q Did you yourself do anything with respect to the body? A No, sir.

Q When you went back to where the body was first seen by you, was the body in the same position as when you first saw it? A Yes, sir.

Q Is this the officer who came back with you, officer Hyman (indicating Officer Hyman)? A Yes, sir.

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MR. WASSERVOGEL: Cross-examine.

MR. SINGERMAN: No, questions.

C H A R L E S S T O E R Z E R, called as a witness on behalf of the People, being first duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. WASSERVOGEL:

Q What is your name? A Charles Stoerzer.

Q Where do you live? A Wards Island.

Q You are a physician, are you? A Yes, sir.

Q Connected with what hospital? A Manhattan State Hospital.

Q On the 10th of August of the present year, were you connected with some other hospital? A I was doing substitution work in the Washington Heights Hospital.

Q And where is the Washington Heights Hospital? A 156th Street West.

Q Were you connected with the ambulance service of that hospital? A Yes, sir.

Q Did you receive a call on the 10th of August to go somewhere? A Yes, sir.

Q And did you, pursuant to that call, go anywhere? A I did.

Q Where did you go? A Two hundred and seventh Street and the Harlem River.

Q Do you know the name of the road there yourself? A We received an ambulance call, but it was given to us

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wrong.

Q But you, of your own knowledge, do you know the name of the road? A No, I do not.

Q When you arrived there, what dd you find? A When I arrived there, I was led down a road, went down with the ambulance; we couldn't go any further.

Q What did you find there? A Found a body lying in the road.

Q I show you this photograph, People's Exhibit No. 1, and ask you whether that is a correct representation of the body as you found it (handing People's Exhibit No. 1 to witness)? A Yes, sir.

MR. SINGERMAN: The same objection I made before as in reference to the photograph.

THE COURT: The same ruling.

MR. SINGERMAN: I take an exception.

Q Did you examine that body? A Yes, sir.

Q What condition did you find it in? A I found the head and neck was nearly severed from the body, and several wounds on the fingers; that is as far as I examined.

Q Did you examine the head at all? A No, sir.

Q Was the person alive? A She was dead.

Q Did you feel the body, to see whether it was warm, or cold? A Yes, sir.

Q What was it? A Well, the lower part of the body, the abdomen and the thighs and legs, were warm, and the face was just about cooling off.

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was just about cooling off. 474 - 11

MR. WASSERVOGEL: Cross-examine.

CROSS-EXAMINATION BY MR. SINGERMAN:

Q How long were you there, doctor, before you felt of the body to determine whether it was warm, or cold? A Within a minute.

Q And what time did you get to this place? A I should judge approximately about 11:15.

Q 11:15 on the night of the 10th of August? A Yes, sir.

Q Could you tell from an examination approximately how long this woman had been dead? A Approximately, I judge she was dead within an hour or an hour and a half.

MR. SINGERMAN: That is all.

ALBERT T. WESTON, called as a witness on behalf of the People, being first duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. WASSERVOGEL:

Q What is your name? A Albert T. Weston.

Q Doctor Weston, you are one of the Coroners' physicians of the Borough of Manhattan? A I am.

Q And you have been for how long? A Over 24 years.

Q And in the past 24 years you have made quite a number of autopsies, have you? A A large number.

Q Many thousands? A Yes, several thousands.

Q Did you make the autopsy in the present case? A I

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did, yes, sir. 474 - 12

Q When? A The autopsy was performed on the 14th of August.

Q This year? A This year.

Q Where? A At the Morgue, foot of Twenty-sixth Street, Borough of Manhattan.

Q And the body was identified to you by somebody wasn't it? A It was.

Q Do you recall the name of that person? A The body was first identified to me by an officer on the 12th, and again by some relatives.

Q Do you remember the name? A The name of the relatives I don't remember. I recorded them in my report.

Q Have you the report with you? A No, sir, I have not.

Q There was a brother, Salvatore? A A brother of the deceased and some cousins, several of them were present at the time.

Q Mr. Murphy was there, too, wasn't he, at the time the identification was made? A Yes, sir.

Q Tell us the condition in which you found the body at the time of the autopsy?

MR. SINGERMAN: Objected to, on the ground that the body has not been sufficiently identified as the body of the deceased Salvatora Giordano.

MR. WASSERVOGEL: Rome was not built in one day, your Honor. We will come to that and connect it with the defendant. I want the doctor to get away. He is a

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Coroners' Physician; e is very busy, and I want to let him go.

THE COURT: On your promise to show that the body on which the autopsy was performed was the body of the deceased, I will take it, subject to a motion to strike out unless you so prove.

MR. SINGERMAN: I take an exception.

Q That body was identified to you as the body of some particular person, wasn't he?

MR. SINGERMAN: This is all subject to my objection.

THE COURT: It is al subject to a motion to strike out unless the body of the deceased subsequently is shown to be the one on whom the autopsy was performed.

MR. WASSERVOGEL: Yes, sir.

A It was.

Q As who? Do you remember the name? Do you remember the woman's name? A I can read it to you.

Q You have a memorandum? A I have a memorandum of the name.

MR. SINGERMAN: I object to the witness reading from a memoranda. No proper foundation has been laid.

BY THE COURT:

Q Doctor, can you tell us the name, without refreshing your memory? A No, sir.

Q Can you refresh your memory? A I can.

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Q By what? A I can tell the name of the deceased, but I don't believe I can spell it according to the exact Italian spelling.

Q If you can't spel it without refreshing your memory, you may refresh your memory. A My recollection of the name without refreshing my memory, is Salvatora Giordano.

BY MR. WASSERVOGEL:

Q Now, tell us the results of your autopsy and the condition found by you? A Upon my first examination of the body, externally, I found that all the skin, the muscles and all the soft tissues of the neck about midway of the neck had been entirely severed down to the spinal column. Upon further examination, I found upon the face a number of small wounds, about three-quarters of an inch in length, on the face and on the scalp. There were altogether twenty-five of these small wounds. On the posterior -- on the back of the head, just behind and above the right ear, was a large, ragged wound, measuring about two inches in diameter; the edges were torn, and the wound extended down to the bone. On the left side, a little lower down, behind the ear, was a similar wound, ragged, torn, measuring about two inches in diameter. Upon further examination, I found that there was an extensive fracture of the skull, extending across the back of the skull underneath both of these large wounds which I have described and communicating with these wounds. This fracture is what is known as a compound fracture of the skull.

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This fracture of the skull which I have described was the cause of death.

Q Now, could that fracture of the skull have been caused by an instrument such as I hold in my hand, People's Exhibit No. 2 for Identification? (Exhibiting same to witness)

MR. SINGERMAN: Objected to as incompetent irrelevant and immaterial.

Q (Continuing) In your opinion.

THE COURT: He may answer that.

Q (Continuing) In your Opinion, Doctor.

MR. SINGERMAN: I still object to it, if your Honor pleases.

THE COURT: The objection is overruled.

MR. SINGERMAN: I take an exception.

A In my opinion, it could have been caused by such a weapon.

THE COURT: Have you asked the Doctor the cause of death yet?

MR. WASSERVOGEL: I think he has told us, your Honor.

BY THE COURT:

Q With reasonable certainty, can you tell us what was the cause of the deceased's death? A I can.

Q What was it, again? A It was a fracture of the skull, a compound fracture of the skull.

MR. WASSERVOGEL: That is all. Cross-examine.

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CROSS-EXAMINATION BY MR. SINGERMAN:

Q You say you performed this autopsy on the 14th day of August, Doctor? A I did.

Q And you made several examinations, you have stated. Am I correct in that? A I made an examination on the 12th and 13th and again on the 14th, when I performed the autopsy.

Q When did you first discover those wounds behind the ears? A On the 12th, the first examination.

Q And what did you discover on the 13th, the day you made the second examination? A Nothing more than what I saw on the 12th.

Q Did you discover anything further on the 14th than you did not discover on the 12th or 13th of August? A I did

Q What did you discover on the 14th? A Well, I discovered more completely the extent of the fracture which I first saw, and also the condition of all the other organs of the body.

Q Now, what do you mean by discovering the further extent of the fracture? Will you just explain that plainly to us, what you mean by that term, discovered a further extension of the facture? Did you discover more than you did on the 12th? A Because on the 12th I did not in any way disturb the scalp, by cutting it or removing it. I discovered the fracture underneath the existing wounds, and at the autopsy I removed the scalp down to the bone and removed the bone and skull cap, and discovered the full extent of the

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fracture, which was greater than could be seen at the first examination.

Q So that the first examination was more of a preliminary examination; is that what you mean to tell us? A Well, that might be, yes, sir; that describes it.

Q Now, where did you examine the body on the 12th? A At the Morgue.

Q At the Morgue? A Yes.

Q Did you likewise examine the body at the Morgue upon August 13th and 14th? A I did, yes, sir.

Q You know, or at least you had been informed, that the body of this person was the body of the person killed on the 10th, weren't you, the 10th of August? A I was, yes.

Q So, it was two days later, after the death, that you first examined the body, two days after the death of the deceased? A Not two full days. It was the second day after the death.

Q The second day after? A Yes, sir.

Q Now, are you acquainted with the methods usually employed by the persons at the Morgue in removing a body and placing it from one location to another? A I am.

Q And are they particularly delicate in handling a body when they bring it into the Morgue? Are they zealous or solicitous in using delicacy in placing that body in any particular spot, or are they somewhat rough or indifferent in carrying a deceased person, the body of a dead person,

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about the Morgue? A I never had any reason to believe they were otherwise than faithful and careful in what they did.

Q Do you know as a fact that they are particularly delicate in not placing a body down with any degree of commotion or force or anything of that sort? A I don't understand exactly what you mean by placing it down with any force

Q Let me ask you this: Isn't it likely that what you discovered to be a severe fracture might have been a result of placing a body upon a table or in a position with some degree of force or some degree of strength used by a man in carrying the body? A No, sir, it could not.

Q Might it not have been the result of a little rough handling that might have exhibited itself to you as a wound or fracture possibly, that otherwise would not have been in its original state such an extensive fracture? A No, sir. They are particularly careful with regard to any violence which would be indicated in that way.

Q Do you know that from personal experience? A Personal experience and observation. Each time the body was moved it was done under my personal supervision.

Q Were you at the Morgue at the time the body was placed there originally? A When first brought there?

Q Yes. A No, sir.

Q Then you know nothing about the way they handled the body when they brought it in, do you? A Not by personal observation, no, sir.

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MR. SINGERMAN: That is all.

L O U I S H Y M A N, Police officer, attached to the 42nd Precinct, Detective Bureau, called as a witness on behalf of the People, being first duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. WASSERVOGEL:

Q What is your name? A Louis Hyman.

Q How long have you been connected with the Police Department? A Seventeen years.

Q And you are now attached to the Detective Bureau, are you? A Yes, sir.

Q And have been for how long? A A little upward of five years.

Q Were you attached to any particular precinct in the month of August of the present year? A Forty-second Precinct.

Q Where is that? A 1389 St Nicholas Avenue.

Q On the night of the 10th of August, were you in the neighborhood of 207th Street? A I was.

Q At about what time? A I reached there about ten minutes after eleven.

Q You went there pursuant to a call, did you? A To a call that a woman was stabbed, or shot.

Q That was the call that you received over the 'phone? A Over the 'phone.

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Q And did you see the witness Allen there? A I did.

Q Where did you go, tell us exactly? A I went into a stretch of woods known as Cold Spring Grove; the entrance is through 207th Street; and I proceeded on the road called the upper road, and at a distance of about 300 feet away from the water edge of the Spuyten Duyvil Creek I found a body lying, the body of a woman.

Q That is, in the upper road? A The upper road.

Q Now, can you tell us the position in which that body was lying at the time you found it? A It was lying flat on its back.

Q I show you People's Exhibit 1, and ask you whether that is a correct representation of the body as you found it (handing paper to witness)?

MR. SINGERMAN: One moment. I make the same objection to the testimony of this witness respecting the photograph that I have to the last witness.

THE COURT: The objection is overruled.

MR. SINGERMAN: I take an exception.

A It is.

Q Can you tell us in what condition you found that body?

A The body lied --

Q The body laid? A The body laid flat on its back, on the left cheek, the eyes looking towards the east, the head facing north by east, and the feet stretched out straight, at a distance of about five inches, that way (illustrating),

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toes pointing upward, the right hand laid about on the hip, here (illustrating); the left hand laid about seven inches from the body, in the mud and dirt on the road.

Q Did you observe anything with respect to the head and face? A The face had a large bruise on the right cheek bone, just below the eye; several cuts around the nose and eyes; a large wound on the top back of head, and about, as best I could count them there, over twenty other cuts about the head and around the ears, and a deep incision on the neck all the way around, and the head was only kept on by some of these thick neck bones back here (illustrating).

Q Was there considerable blood there? A Yes, sir, a pool of blood all on the side of the road, on the green foliage of some of the bushes on both sides; it looked very much like a struggle of some kind.

Q What did you do? A I was accompanied there at that time by Dr. Stoerzer, of the Washington Heights Hospital; I had met the ambulance when I was going up there, and I jumped on the footboard of the ambulance, and we entered the place I described before, Cold Spring Grove, together. Immediately we saw the body, I asked the Doctor to examine the body and see whether the woman was ravished. The body fel on one side. I was on the left side of the body --

THE COURT: Don't tell us anything that was said.

Q Tell us what was done? A I was on the right side of the body -- I was on the left side of the body, and the doctor

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was on the right, and we both lifted the deceased's skirt. He examined her, and he placed one hand on her right limb, while I placed one hand on her left limb, and the body was warm; the face was warm; and after searching through the woods in the immediate vicinity there was another officer there, Officer William Flynn, I left and went to the precinct stationhouse to make a report.

Q Did you leave Flynn in charge? A I left Flynn in charge. I tried to get the stationhouse on the telehpone, but there was a bad connection, and I thought I would go in and give a verbal report.

Q Did you come back to the scene again? A I come back to the scene again with other assistance, other officers, at about 2:30 in the morning. In the meantime, there had been a search made of the woods, and we came back to assist in that search.

Q What time was it, Officer Hyman, when you first arrived at the scene? A At 11:10.

Q That night? A That night.

Q Did you go back again after that? A I went back again about 2:30; I didn't leave there until about 12:00.

Q I mean after 2:30? A We remained around the neighborhood.

Q Until morning? A Yes, sir. We relieved one another, and got a bite of lunch, and we were all there again in the morning.

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Q What time were you there in the morning? A About 9:00 o'clock.

Q And did you renew your search of the surrounding country there? A We did.

Q And did you find anything at or near the body? A I stood about seven feet from the body, when there was several people there, boys, newspaper men and others, when a young lad hollered out "Here is something", and as I approached him I see him stoop down and pick up a knife, which he handed me. I was the nearest one to him.

Q Is this the one (exhibiting knife to witness)? A Yes. I marked it there with my initials and shield number, scratched it.

Q Was there anything on this knife at the time? A Yes, sir, it was blood on the handle and on the blade.

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MR. WASSERVOGEL: It is offered in evidence.

(Received in evidence and marked People's Exhibit No. 3, of this date).

Q Where was this found? A At a distance of about four feet from the right side of the body as it laid.

Q Can you mark that spot where the knife was found on this photograph (showing witness People's Exhibit No. 1)? A In amongst that brush (indicating on photograph, People's Exhibit No. 1).

Q Mark it with an "X"? A (Witness marks on photograph, People's Exhibit No. 1).

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Q Right where you have marked it with an "X", in these bushes? A About there.

Q Was there anything else found at that time? A Immediately after the knife was found, a man named McKenna, who is a newspaper reporter, picked that up on the other side of the body, on the other side of the road (indicating article).

MR. SINGERMAN: Objected to.

Q What youyourself saw.

MR. SINGERMAN: I move to strike that out.

A I saw him pick that up, and I stepped over the body and said "What have you got there?", and he said,"I just picked that up".

THE COURT: Not what he said.

Q What did you see? A I saw him pick that up.

Q Did you take it? A I took it from his hand.

Q What was the condition of this article which I hold in my had, which is marked People's Exhibit No. 2 for Identification? A It was full of blood stains along here (indicating)

Q Where was that found? A That was found about six feet to the left side of the body as it laid, or, relatively, about over in here (indicating on photograph, People's Exhibit No. 1).

Q Mark it with a cross? A (Witness marks on photograph, People's Exhibit No. 1).

Q Also in the bushes? A Yes, sir.

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Q On the other side of the body? A Yes, sir.

Q You say there was blood upon this also? A Yes, sir.

Q And what, if anything, did you do with this article at that time, People's Exhibit No. 2 for Identification? A I took the last; I went to the head of the body, and I fitted it to the wound on the head, and this part, this iron raising here, fitted into the cut on the head.

MR. WASSERVOGEL: The article is offered in evidence, your Honor.

MR. SINGERMAN: Objected to, on the ground it is incompetent irrelevant and immaterial, not binding on this defendant, and on the further ground, your Honor, that there has been no connection shown between this crime and this defendant, at this stage of the prosecution.

THE COURT: Well, it is marked for identification.

MR. WASSERVOGEL: It will be connected properly.

THE COURT: Well, connect it, and then we will receive it.

Q What did you then do? A I took these articles and I marked them and took them to the stationhouse, and the body was photographed, and afterwards it was removed. Subsequently, we were investigating the case, and on the 16th of August, at about 1:30, I went to the Twelfth Precinct Stationhouse, and there saw this defendant. I questioned him, through another interpreter, another Italian speaking

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officer.

Q What is his name? A Officer Digillio; and I put the question, and asked him whether or not he wanted to make a statement relative to where he spent his time in the afternoon, evening and night of August 10th, and he st ated that in the afternoon he was home.

MR. SINGERMAN: One moment. I move to strike that out.

MR. WASSERVOGEL: That is consented to. We will get that from Officer Digillio.

Q What did you do then? A I placed the defendant under arrest.

Q He was under arrest then, wasn't he? A Yes, sir.

THE COURT: We will stop here. (To the jury) Do not talk about this case, nor permit any one to talk to you about it, nor form nor express any opinion thereon, until the case shall finally be submitted to you. You may go until 10:30 to-morrow morning, gentlemen.

(The Court then accordingly took a recess until tomorrow, Friday, October 17th, 1913, at 10:30 A.M.)

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New York, Friday, October 17th, 1913.

TRIAL CONTINUED

LOUIS HYMAN, resumed the stand.

THE COURT: Gentlemen, the Fourth Juror says he wants to get away at four o'clock. Now, I always try to run court as close to the court's time as possiblebecause I recognize you gentlemen expect that, and you make your appointments and make your engagements accordingly. If I should keep you here after four it would disarrange your affairs;I recognize that fact; and I live up to it as closely as I possibly can.

DIRECT EXAMINATION (CONTINUED) BY MR. WASSERVOGEL:

Q Officer Hyman, yesterday afternoon I had you mark People's Exhibit No. 1 with a cross to indicate the spot where this shoe-last was found. I would prefer that you mark it with a "Y", because the first mark, showing where the knife was found, was a cross. Put a "Y" there. A (Witness marks on photograph, People's Exhibit No. 1).

Q And the other cross indicates the spot where the knife was found? A Yes, sir.

Q Now, the body which you saw on that occasion, did you again see it later on, elsewhere? A Yes, sir.

Q Where? A I saw it at the Forty-second Precinct Stationhouse.

Q And did you see the same body at the Morgue? A I saw

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the same body at the Morgue, foot of East Twenty-sixth Street.

Q Did you see that body at any time when Dr. Weston, the Coroners' Physician was present? A I identified that body before Dr. Weston as the body that was found in the woods near Two hundred and seventh Street and Spuyten Duyvil Road on the 10th of August, about 10:30 P.M.

Q Mr. Murphy was also present on one occasion? A Not at that time.

Q Not at that time? A No.

Q Did you ever see these combs before, Officer Hyman? A Yes, sir, one of them I took from the head of the deceased and the other lied about six inches away from the head, the top part of the head, away.

MR. WASSERVOGEL: I ask they be marked for identification.

(Same are marked People's Exhibit No. 4, for identification, of this date).

Q Do you recognize the articles which I have on the table here, this skirt and the shoes? A Yes, sir.

Q Where did you get these? A They were removed by a matron and handed to me in the Forty-second Precinct Stationhouse.

Q Removed from where? A From the body of the deceased, I marked them.

Q You marked them at the time? A Yes, sir.

Q You recognize them as the same articles? A Yes, sir.

(Skirt last referred to is marked People's Exhibit

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No. 5, for identification, of this date; shoes last referred to are marked People's Exhibit No. 6, for identification, of this date).

Q Officer Hyman, did you do anything with respect to this shoe-last, People's Exhibit No. 2 for identification? A I marked it.

Q Outside of that? A I fitted the shoe-last to the wound at the top of the head.

Q Yes, in addition to that? A I also, on the day of the defendant's arrest, had that brought to the Twelfth Precinct Stationhouse by Officer Hawkins, and in the Twelfth Precinct Stationhouse I removed the right shoe of the defendant and fitted this last into the shoe he wore; it was a tan button shoe, and it fitted.

Jac 13 MR. SINGERMAN: I move to strike that out as incompetent irrelevant and immaterial, having no bearing on the issues.

THE COURT: If you will tell me what you mean by that which you move to strike out, I will entertain the motion.

MR. SINGERMAN: I move to strike out the entire answer of the witness in response to the question.

THE COURT: I cannot strike out the entire answer. It seems there is a part of it responsive.

MR. WASSERVOGEL: I think all of it is responsive, if your Honor will have the stenographer read it.

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THE COURT: I heard it. I must deny your motion as made.

MR. SINGERMAN: Then I ask your Honor to strike out that portion of the answer given by the witness in which he stated that he fitted the last into the shoe of the defendant, as not being binding upon the defendant and having no relevancy to the issues.

THE COURT: Strike out that part.

Q What did you do with this last with respect to the defendant's shoe?

MR. SINGERMAN: One moment. I object to the question.

THE COURT: Answer that question.

MR. SINGERMAN: I take an exception.

THE COURT: Now, your objection was sustained because there has not been the preliminary proof to make it admissible, but, of course, the District-Attorney will get there. You know he has a right to do it in a proper way, so it only means that we will have five or six questions to get in evidence that which was stricken out, but that is one of the law's circumlocutions. I only suggest that when you know testimony is competent, even though there is some technical objection, that you waive that you waive that objection, and we will save time.

MR. SINGERMAN: My objection does not go to the technicality of the question asked, but to the substance. I contend that there is no relevancy between this particular

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last and the size of the defendant's shoe in so far as the crime is concerned with which this defendant is charged. This last might fit shoes of a hundred different people, and there is no particular reason for asking whether it fitted into the particular shoe of this defendant. I therefore except as incompetent irrelevant and immaterial, and not binding upon the defendant.

MR. WASSERVOGEL: This proof will be supplemented, your Honor.

THE COURT: I will allow it.

MR. SINGERMAN: I take an exception.

Q Now, tell us, please? A The defendant was asked if he ever owned a last, displaying this one. He couldn't remember whether that was his last or not, but he said he did own one. I thereupon removed his shoe.

Q Which shoe did you remove? A The right foot, and measured the last with the shoe on the outside, sole to sole, and upon seeing that it was about the same size I inserted it on the inside of the shoe, and it went in.

Q Did it fit? A It fit.

Q Did you go to the defendant's home at any time? A I did.

Q Where was the defendant's home? A 137 Mott Street, in the rear building, one flight up, on the north side of the building.

Q And were you there alone, or with some one else? A I was with Officer Hawkins and Officer Cassidy.

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Q Did you make a search of the apartment? A I did.

Q How many rooms did you say were there? A Two.

Q What, if anything, did you find? A I found under the bed, lying partly under a rag-bag, a bag containing a lot of rags, I found that hair comb (indicating).

MR. WASSERVOGEL: Mark it for identification.

(Same marked People's Exhibit No. 8, for identification, of this date).

Q Did you find anything else there on that occasion? A Another pair of shoes were found there.

Q Another pair of shoes? A Yes, sir.

Q Mens shoes, or women's shoes? A Men's shoes.

Q And did you do anything with respect to the shoe-last in the shoes you found there? A I did, but the defendant was not present.

Q The defendant was not present. Are these the shoes you found there (handing shoes to witness)? A Those are the shoes. I also fitted that shoe-last into these shoes, and it fit.

MR. SINGERMAN: The same objection, if your Honor pleases.

THE COURT: The objection is overruled.

MR. SINGERMAN: I take an exception.

(Shoes last referred to are marked People's Exhibit No. 9, for identification, of this date).

Q Did you find anything else on the premises that you recall

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now? A I found a suit of clothes.

Q Men's clothes? A Men's clothes.

MR. SINGERMAN: Officer, I don't hear you.

THE WITNESS: A suit of clothes.

MR. WASSERVOGEL: I think you may cross-examine.

CROSS-EXAMINATION BY MR. SINGERMAN:

Q Now, Officer, is there anything in this shoe-last marked People's Exhibit No. 2 for identification, is there anything peculiar about that shoe-last that would necessarily only fit the shoe of this defendant? A No, sir.

Q Might it not fit the shoe of almost any person whose foot was as long as the defendant's, who wore a shoe of the same length?

MR. WASSERVOGEL: That is argumentative, your Honor.

THE COURT: I don't think it is necessary to ask that question before the jury. As reasonable men they know a number eight shoe fits a number eight foot.

MR. SINGERMAN: Counsel particularly laid stress upon that.

THE COURT: Pay the jury the compliment of assuming that they have usual good sense, and I think we will get on very rapidly.

Q You testified here yesterday that in finding the body of the defendant it was about fifteen minutes after ten in the evening, did you not?

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MR. WASSERVOGEL: Eleven. 474 34

Q (Continuing) Fifteen minutes after eleven? A Ten minutes after eleven I reached the scene where the body was lying.

Q Andyou returned later and you found the body in the same position? A Yes, sir.

Q And you fitted this shoe-last to the wound in the defendant's head, did you not, the back of the head?

MR. WASSERVOGEL: The deceased's, not the defendant's head

MR. SINGERMAN: The deceased's head.

Q The deceased's head. A Not at that time, when I returned, no. The shoe-last was not found until morning, at daylight; I so testified.

Q At that time you fitted the shoe last? A When it was found.

Q You also testified there had been some reporter there when you got to the scene of the murder, did you not? A No, there was not a soul there when I got to the scene of the murder.

Q There was no one there? A Except the body.

Q That was your testimony yesterday? A Mr. Allen and a watchman, the ambulance surgeon, Officer Flynn and myself went up that road, and the body lied there alone, when I got on the scene of the crime.

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Q You don't know whether any one had disturbed the body before you got there, do you? A No, sir.

Q So far as you know, some one might have been there before you and might have moved the body; is that not true?

MR. WASSERVOGEL: Objected to as argumentative.

BY THE COURT:

Q Did you see any indications as to whether or not there had been anybody at the body before you and whether or not the body had been moved? A The first time I got there the body lied in the centre of the road, and that is the first view I had of the body. I could not say whether anybody had removed it. Mr. Allen, I asked him whether that is the position the body laid in as he saw it when he first discovered it. He said yes.

MR. WASSERVOGEL: That testimony is in the record of yesterday.

BY MR. SINGERMAN:

Q But, so far as you know, I am asking you, so far as you know had anyone moved the body before you got there? A I don't know.

Q Now, was it necessary for you to move the head of the deceased in order to fit this shoe-last? A No, sir.

Q Upon the wound? A No, sir.

Q Yet you stated, the wound was in the back of the head, did you not? A Right here (indicating).

Q On top of the head? A Top, to the left.

Q It was not in the rear of the cranium? A Right

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where I am indicating with my hand, about (indicating).

Q How large a wound was it? A What I have heard termed a separating wound, and a lot of little cuts going from that wound

Q What was the largest cut you could find in respect to length and width? A I should judge about 2-1/2 to 3 inches.

Q From your description of the wound, there were a considerable number of cuts running in different directions? A I testified so yesterday, about twenty.

Q Will you explain to the jury what you mean by the statement that you fitted the shoe-last into the wound and found that it fitted when, as a matter of fact, according to your present testimony, there were cuts running in different directions? A When this was found and handed to me, when I first observed the blood all around here and this iron projection here (indicating on last, People's Exhibit No. 2), immediately when I saw that I turned that around in my hand and I fitted that part to the wound. That is what caused me to fit the last, this projection showing and the blood on this side of the last; that is what prompted me to fit it on the head that way as it lied on the ground. Never touched the head. Never moved it.

Q In your seventeen years of experience as a detective, have you had occasion to arrest persons for assault? A Many times.

Q Have you seen wounds similar to this xone upon other persons who have been assaulted? A Not similar.

Q Have you seen any wounds about the same dimensions?

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A Yes, I have. 474 37

Q Couldn't you fit that shoe-last the way you did in this case into the wounds of some of the other persons who had been assaulted heretofore, in other cases? A I can't say that I could.

Q You can't say tat you could not, could you? A It would depend upon the size of the wound.

Q I am asking you if you have seen similar wounds, about the same size, and you answered you had? Ax I have never seen a wound exactly like this one before.

Q You have seen wounds of about the same size, have you not? A Yes, sir.

Q Committed with other instruments besides a shoe-last, have you not? A Yes.

Q That you could fit that shoe-last into just as comfortably as you could in this case?

MR. WASSERVOGEL: How does this witness know, if he has not tried to fit the shee-last in other wounds?

THE COURT: Oh, he may answer it.

A I don't think so.

Q Why? A Because this wound was made in such a way that when the cut was there the skull laid together.

Q Will you kindly answer that question, Mr. Witness? A I say, the scalp laid together, and I fitted the projection right into where the scalp was partly open, lying together.

Q What do you mean by the statement that the scalp was

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partly opened and yet laid together? A Well, it was cut; there was a cut in the scalp, and then it laid together.

Q As if someone had pressed the skin together around the cut? A No, it was just the natural way it laid, natural, after the assault was committed.

Q Anything peculiar about that, about the skin lying together over the cut? A No.

Q Have you seen that in other instances? A Yes.

Q Then, what is the peculiarity in this case against the others where the shoe-last would not fit in those other cases in a wound where the skin laid together and in this case where it likewise had the same appearance? A Well, the projection on that last is the peculiarity of the cut. Assuming that the other side of that last was used, it would be something like that (illustrating).

Jail 4 Q In other words, that is the best answer you can give why this shoe-last fitted into this particular cut, because in this instance, and not in the other cases where you might have a similar cut; that is the best answer you can make? A That is the best answer.

MR. SINGERMAN: That is all.

RE-DIRECT EXAMINATION BY MR. WASSERVOGEL:

Q You are not a physician, are you? A No, sir.

Q And you have never seen a wound exactly like this one before? A Never before.

MR. WASSERVOGEL: That is all.

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SALVATORE BONTORNO, called as a witness on behalf of the People, being first duly sworn and examined through the Official Interpreter, Diadato Villamena, testified as follows:

DIRECT EXAMINATION BY MR. WASSERVOGEL:

Q What is your name? A Salvatore Bontorno.

Q Where do you live? A 54 Elizabeth Street.

Q What is your business? A Laborer.

Q And do you know this defendant? A Yes, sir.

Q How long have you known him? A From the time that he married my sister.

Q And what was your sister's name? A Salvatora Bontorno.

Q When did your sister marry this defendant? A About five months ago.

Q How long has your sister been in this country, or was she in this country, prior to her death, rather? A Five or six months. No more than that.

Q Do you mean five or six months before she died? A Yes.

Q How old was your sister? About how old was she? A Thirty-eight years.

Q Did you know the defendant in Italy? A Yes, I knew him.

Q After the arrival of your sister in America from Italy, did the defendant call at your home? A He sent some one

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to ask my sister's hand to marry her.

Q Was a marriage ceremony performed? A Yes, sir.

Q And where was that marriage ceremony performed? A City Hall.

Q That was the civil marriage, wasn't it? A Yes, sir, sure.

Q And you remember the date? Do you remember the date? A I don't remember the date, but I believe it was in the month of April.

Q Wasn't it the 31st of March, this year? A I don't remember exactly the date.

MR. WASSERVOGEL: Will you concede that, Mr. Singerman, the 31st of March? I have the record here.

MR. SINGERMAN: Just a moment. I will ask him. If your record is there, I will concede it.

Q Now, at that time, was there anything said about a religious ceremony? A No, he don't want to get married in a church.

Q But what was said about a religious ceremony at the time the civil ceremony was performed in the City Hall?

MR. SINGERMAN: Try to limit him as to whether it was within his knowledge, whether he was present.

MR. WASSERVOGEL: Yes, of course, what he knows about it only.

A After the marriage at the City Hall, the defendant said he lost his money, he could not be married in the church, and

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he is sorry that he got married.

Q Is it customary among the Italians to have two ceremonies, one a civil ceremony and the other a religious ceremony? A Yes, sir.

Q And when he refused to marry your sister according to the religion of your church, what, if anything, did your sister do to your knowledge? A My sister went over to the court and complained about him, and in the court they give my sister a piece of paper to serve on him, and my sister went together with my sister-in-law --

MR. SINGERMAN: Now, one moment. I object to that as incompetent, irrelevant and immaterial, not binding upon the defendant, not within the issues.

THE COURT: I think your relief is not to object to the question, but to move to strike out a portion of the answer, as you deem open to criticism.

MR. WASSERVOGEL: Yes, that is consented to.

MR. SINGERMAN: It seems to me, your Honor --

THE COURT: The trouble is this: I don't know what he wants stricken out. If you will tell me just what you want stricken out I will entertain the motion.

MR. WASSERVOGEL: I would suggest that the part where he said the sister went and served the summons, that that be stricken out. I will consent to that, because he was not there.

THE COURT: If that is the part you want stricken out,

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kindly amend the motion.

MR. SINGERMAN: I submit the entire question was improper. The question was irrelevant.

THE COURT: The question was asked and answered without objection. Therefore, it is too late to make an objection.

MR. SINGERMAN: I move to strike it out.

THE COURT: I won't strike out the question, because the time has passed for that. I will strike out such portion of the answer as you will indicate if it seems proper to so strike it out.

MR. SINGERMAN: I move to strike out that portion of the answer in which the witness testified that the deceased went to the Domestic Relations Court.

THE COURT: Strike it out. Strike out all of it.

MR. SINGERMAN: And I also ask your Honor to instruct the witness, as well as the Interpreter, to speak up louder, because I have an Italian interpreter who likewise wants to hear.

THE COURT: Be good enough to speak loudly, Mr. Witness, and, Mr. Interpreter, you follow that coursealso.

Q Is this the paper that you have testified about which was received from the court (handing paper to witness)?

MR. SINGERMAN: One moment. I object to that question as incompetent irrelevant and immaterial and not binding upon this defendant.

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THE COURT: The objection is overruled.

MR. SINGERMAN: I take an exception.

A I cannot read or write.

MR. WASSERVOGEL: Mark this for identification.

(Paper marked People's Exhibit No. 10, for identification, of this date).

Q Did you ever have a talk with the defendant regarding the paper which was obtained from the court and served upon the defendant?

MR. SINGERMAN: One moment. Objected to as incompetent irrelevant and immaterial and not binding upon the defendant.

THE COURT: The objection is overruled.

MR. SINGERMAN: I take an exception.

A Never, never.

Q Was there anything said about a religious ceremony after the service of this paper from the court?

MR. SINGERMAN: I make the same objection, as incompetent, irrelevant and immaterial and not binding upon the defendant.

THE COURT: Your question, I assume, relates back to another question which identifies the conversation had with the defendant?

MR. WASSERVOGEL: Exactly, your Honor.

THE COURT: Wouldn't it be better to put that in the

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question now, so each question will be complete, or reasonably so, in itself? I overrule the objection.

MR. SINGERMAN: I take an exception.

Q Did you yourself, or did anybody else in your presence, ever have a talk about the religious ceremony with the defendant after the paper was obtained from the court?

MR. SINGERMAN: I make the same objection.

THE COURT: The objection is overruled.

MR. SINGERMAN: I take an exception.

A Yes, we spoke about it.

Q Now, what was said? A I asked him, "Are you ready to get married in a church?", and he says, "I lost the money, and I couldn't get married".

Q After that, what was said? A Then, after that, some friends went between us, and I said to him, "I will buy the dress for my sister, and you buy the clothes for yourself", and they got married in a church.

Q And that was the 20th of April, was it not?

MR. WASSERVOGEL: Will you concede that date, Mr. Singerman?

MR. SINGERMAN: Yes.

THE WITNESS: I don't remember the date.

Q Now, between the 31st of March, 1913, when the civil marriage was performed, and the 20th of April, 1913, when the religious ceremony was performed, was the defendant living with

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your sister? A No, sir.

Q Do you know where she was living then? A She lived with me, with Mario Scolla and all the rest of us.

Q She lived in your home, did she? A Yes.

Q When did you last see your sister alive? A 10th day of August.

Q And at what time did you see her? A At eight o'clock in the evening.

Q And where did you see her then? A In my house.

Q And was she alone at that time? A Alone.

Q At about what hour did she leave your house? A She remained about ten minutes.

Q And where was your house at that time? A 54 Elizabeth Street.

Q Did you see her go away with anybody at that time? A Yes, I saw my sister go away with him.

Q With the defendant, you mean? A Yes, sir.

Q Did you ever visit the defendant while he was living with your sister? A Yes.

Q What was his business? A Laborer.

Q Did you ever see this shoe-last, People's Exhibit No. 2 for identification (exhibiting same to witness)? A Yes, it belonged to him.

Q It belonged to the defendant? A Yes, it is his, it is his.

Q Did you ever see the defendant do anything with this

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shoe-last? A I don't know what he was doing in his own house. He had that for his own use.

Q For what use did he have it, if you know? A Sometimes he was fixing his own shoes.

MR. WASSERVOGEL: This shoe-last, if your Honor please is now offered in evidence.

MR. SINGERMAN: I object to it the shoe-last going in evidence, on the ground it has not been sufficiently identified. There are no particular earmarks or other marks of identification that would justify this witness in specifically fixing this as the shoe-last of the defendant, and on the further ground it is incompetent irrelevant and immaterial and not binding on the defendant.

THE COURT: Objection overruled. It will be received.

MR. SINGERMAN: I take an exception.

(Received in evidence and marked People's Exhibit No. 2, of this date).

Q When did you first find out anything about the disappearance of your sister? A On Monday night.

Q Monday night. Do you remember the date? A The 11th day of August.

Q And you say you last saw her on the evening of the 10th of August; is that right? A Yes, the 10th day of August.

Q That was a Sunday night? A Yes, Sunday night.

Q What did you do on Monday evening? A In the evening

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of Monday, I passed in front of my sister's house, and I found everything was closed. I asked him is my sister nome, and he says "No, I suppose she is working yet".

Q Did you have any other talk with him then? A Then I went back there the second time, and I found everything closed, also, and I asked him where does she work, and he told me she was working in a rag shop.

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Q Did you ask the defendant when he had last seen his wife? A He told me that Monday morning he left his wife inside.

Q Did you ask the defendant to go anywhere with you? A I says to him, "Let us go out and find out".

Q Go out where? A In the street, where we could find her.

Q Well, what did you do? A The next morning, in Leopoldo's saloon they were reading the paper and they were saying that they find --

MR. SINGERMAN: One moment. I object to that question and move the answer be stricken out, as incompetent irrelevant and immaterial.

MR. WASSERVOGEL: If the defendant was present, he may say that.

MR. SINGERMAN: The answer is "they".

THE WITNESS: Yes, he was present in the saloon when they were reading the paper, and then we come out together.

MR. SINGERMAN: One moment, if your Honor please, I move that the answer thus far given be stricken out as not responsive. The witness is not testifying to what

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the defendant said, but to what people in general said. He says, "they", which might refer to everybody in the saloon.

THE COURT: Strike it out and tell us what the defendant said.

MR. WASSERVOGEL: I will withdraw that question and put another.

Q You say the following morning you, the defendant and several other people were in a saloon; is that right? A Yes.

Q And where was that saloon? A Mr. Leopoldo's.

Q And where is that? What street? A I believe 56 Elizabeth Street.

Q And was the subject of the disappearance of the defendant's wife discussed?

MR. SINGERMAN: Objected to.

Q Just tell us what was said by all persons who were present?

MR. SINGERMAN: Objected to, if your Honor please, as incompetent irrelevant and immaterial.

THE COURT: I think you are entitled to show what you are trying to show, but I think technically your question is open to objection. Now, if you will put it this way: Did the defendant participate in that conversation, and then you may have the entire conversation. Of course, the part that is competent is the part had with the defendant, but all that surrounded it becomes a part of it perhaps. That does not appear now, so I am

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bound to sustain the objection.

Q Did the defendant take part in that conversation? A Yes.

Q What was said by you, by the defendant or by any other person who was present at that time?

MR. SINGERMAN: One moment; I object to the form of the question.

THE COURT: In this conversation in which the defendant participated. Add that to your question and I will overrule the objection.

Q What was said by any of the persons who were engaged in this conversation and in which the defendant also participated?

MR. SINGERMAN: One moment. I object to the form of the question, unless counsel limits himself to the conversation between this defendant and any specific person, as his question is too general.

THE COURT: You may have the entire conversation, if the defendant participated in it.

MR. SINGERMAN: I take an exception to your Honor's ruling.

Q Go ahead. A As Leopoldo was reading the paper, the defendant says "That is my wife".

MR. SINGERMAN: One moment. I move that be stricken out as too general and not responsive and incompetent, irrelevant and immaterial, and not binding on the defendant.

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THE COURT: I deny your motion.

MR. SINGERMAN: I take an exception.

Q Was a newspaper shown to the defendant at that time?

A Yes.

Q Is this the paper (handing newspaper to witness)? A I can't read or write. It was a newspaper.

Q It was a paper similar to this, was it? A Yes, sir.

Q And did that paper show a picture of a woman, the same as the paper which I show you? A Yes, yes.

MR. WASSERVOGEL: Mark this in evidence.

MR. SINGERMAN: I don't see the relevancy of it. I might as well offer any pamphlet circulated in the City of New York about this crime.

THE COURT: It is part of the res gestae of this conversation. I have called your attention to the fact that if the defendant made admissions, declarations against interest, it is competent. We may have the paper marked for identification as part of it. Whetheror not we will receive it will depend on subsequent developments.

(Paper marked People's Exhibit No. 11, for identification, of this date).

Q Now, give us the conversation?

MR. SINGERMAN: By whom, Mr. District-Attorney?

MR. WASSERVOGEL: Oh, we have gone over that a dozen times. By the people engaged in it, all the persons that were engaged in the conversations in which the

defendant participated.

MR. SINGERMAN: I object to the form of the question, if your Honor pleases.

THE COURT: The objection is overruled.

MR. SINGERMAN: I take an exception.

A Leopoldo was reading the newspaper, and he was explaining that a woman of twenty-two years old was found dead, and he said, my brother-in-law, "This is my wife".

Q Well, what else? A Then we wer advised to go to the stationhouse. I said I couldn't speak English, what is the use of my going; so we went to Luiji Sperenti.

Q Who is that? A I and my brother-in-law and a man named Luiji Sperenti. We went to the stationhouse.

Q What did the defendant say about going to the police station, first? A He didn't say nothing. We went to the stationhouse, and he says, see if we could find it. We go over there and they said "There is no news here. Come back again"; and they sent us to the stationhouse at Elizabeth Street, and when we got there they said "We don't know nothing about it".

MR. SINGERMAN: One moment. I have an interpreter here, a gentleman who speaks both English and Italian fluently, and is very learned in the Italian language, and he claims that question did not bring forth the proper answer, that the witness did not reply to the question.

THE COURT: The testimony is interpreted by the sworn

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interpreter of the court. Now, if your interpreter says the interpreter is not correctly interpreting it, we will examine our interpreter and see whether or not he is correctly interpreting. Of course, the charge does not suggest any corruption.

MR. SINGERMAN: Not in the slightest, only an error.

THE COURT: There may be a slight difference. You may examine our interpreter on that point, or even your interpreter may question him.

MR. SINGERMAN: Will your Honor allow it now?

THE COURT: Certainly.

Mr. Romano (Defendant's Interpreter): The District Attorney asked the witness what did Giordano say when he was asking him to go to the stationhouse, and he then started the whole conversation that took place at the stationhouse. The interpreter was trying to ask the witness what he meant by a certain word that he was trying to get out of him and he could not give the answer, because the dialect is different from the Interpreter's.

THE OFFICIAL INTERPRETER: I speak the Cicilian dialect. One word I did not understand, and I asked the witness what he meant by it, to be just exactly my interpretation.

DEFENDANT'S INTERPRETER: The District-Attorney asked what did Giordano say when you people were told to go to the stationhouse, that he wanted to go, and what

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took place between him and Giordano. Theanswer that was given by the witness was a conversation that took place at the stationhouse with the men that went along with them, a banker by the name of Sperenti. The answer he should have given was what did Giordano say when he told him to go to the stationhouse. Did he go of his own free will, or was he willing to go.

MR. WASSERVOGEL: The objection is apparently not to the interpretation, but that the answer is not responsive.

DEFENDANT'S INTERPRETER: He didn't understand what the interpreter told him.

THE COURT: You put the question yourself, if he did not understand it.

(Question read by stenographer, as follows: "What did the defendant say about going to the police station, first?")

(The Defendant's Interpreter puts the question to the witness).

THE OFFICIAL INTERPRETER: Your Honor, he don't put the quest'on right. The District-Attorney did not say that.

THE COURT: He is putting a question. You interpret that question itself.

MR. WASSERVOGEL: Let us have the question this gentleman asked in Italian translated in English now. Give us exactly what he said, in English.

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THE OFFICIAL INTERPRETER: "What did Giordano, your brother-in-law, say when you asked him to go to the stationhouse in regard to finding your sister?".

DEFENDANT'S INTERPRETER: Exactly; isn't that the question?

THE COURT: You may answer that question.

THE WITNESS: He said, "Let us go together", but he was xx himself behind all the time; he remained all the time behind.

DEFENDANT'S INTERPRETER: Will you ask him that, Mr. Interpreter?

(The Official Interpreter interprets to witness).

THE WITNESS: Yes, I went first, and he was behind me, and the other men right alongside of me.

MR. SINGERMAN: Still, that is not responsive. What did he say, and he states what he did, instead of what he said.

THE COURT: I can't change the answer. You gentlemen put your own questions, and get your own answers.

MR. SINGERMAN: I request the question be put once more by my interpreter, Mr. Romano, and that we have an answer from the witness as to what was said by this witness.

MR. WASSERVOGEL: Why can't we have that on cross-examination?

THE COURT: Yes, I interrupted because it was suggested that in the interpretation something was lost.

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DEFENDANT'S INTERPRETER: Judge, your Honor, I don't mean to say the interpreter did it wilfully, it is just the difference in the dialect, and the Interpreter knows that very well. He is probably a Northern Italian, and the witness is a Southern Italian, which is the Sicilian and in Sicily they have probably twenty dialects in all.

BY MR. WASSERVOGEL:

Q Did you ever see this comb, People's Exhibit No. 8 for identification (handing same to witness)? A That belonged to my sister.

Q When did you see her wear it the last time? A Sunday evening.

Q About eight o'clock? About what time? A At eight o'clock she was in my house.

MR. WASSERVOGEL: This is now offered in evidence.

(Received in evidence and marked People's Exhibit No. 8, of this date).

Q Did you go to the Morgue at any time after the disappearance of your sister? A Yes, sir, he went there first.

Q No, did you go there? A Yes, sir.

Q And did you see a body of a woman there? A Yes, sure.

Q And did you recognize the body of that woman? A Yes, sir, my sister.

Q And you identified the body to the Coroners' Physician as the body of your sister, did you? A Yes, sir.

MR. WASSERVOGEL: Cross-examine.

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CROSS-EXAMINATION BY MR. SINGERMAN:

Q Now, you have always been friendly with the defendant, have you not? A Yes, thank God.

Q How long have you known this defendant? A In Italy I knew him, but just an acquaintance.

Q How long? A Four, five or six years, I don't remember; I used to see him frequently.

Q Did you go about with him socially? A Where? In Italy?

Q In Italy. A No, sir.

Q Did you know his relatives in Italy, his mother and his various relatives there? A No, sir.

Q Then, you only knew him out of the entire family in Italy? A Yes, we would meet and greet each other, and that is all.

Q Did your sister, the deceased's wife, know him in Italy? A No, sir.

Q What was your business in Italy at that time? A Lime maker.

Q Do you know what the defendant's business was in Italy? A Farmer.

Q Did you know him to be an industrious farmer during the time that you knew him, a hard working man? A I was not living with him; I did not know.

Q But during the years that you did know him in Italy as a farmer, did you know him to be other than a working man

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who pursued his work? A Yes, that he was working, yes.

Q You were the only living relative in this city of your deceased sister, were you not? A My brother that is in in Chicago.

Q I mean this city, the city of New York? A I am the only one.

Q And naturally, you looked after your sister's interests, to see that she was properly protected while she was unmarried in this city, did you not? A Yes, he was coming in my house, and I was going in his house.

MR. SINGERMAN: I move to strike that out as irresponsive.

THE COURT: I suppose that that, in a measure, is responsive. You may follow it up and see just what was meant by the testimony, if you wish.

MR. SINGERMAN: Well, let it stand.

Q Now, you were anxious to see that your sister was properly cared for and married and settled down, were you not? A Certainly, certainly.

Q How long before the date of this marriage at the City Hall, the 31st day of March, how long before that was the defendant keeping company withbyour sister, to your knowledge? A About a month. No more than a month.

Q And you knew this during that month? A Yes, he made a proposition to my sister, but he did not come to the house more than a couple of times.

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Q And did you object to his proposition of marriage, or were you satisfied with it? A I was satisfied.

Q Then you must have seen him worthy of your sister, did you not? A Yes, sir.

Q Upon the mere fact that you knew him in Italy, or the fact that you knew him better during that one month that he kept company with your sister here in New York? Which? A Well, I knew him in Italy, and I knew him here.

Q Then, you must have thought fairly well of him to consent to his marriage to your sister, did you not?

MR. WASSERVOGEL: He has said that. It is conceded.

A Certainly.

Q Principally upon his record in Italy, I presume, because you knew him there for the greatest length of time; is that so? A Sure.

Q And what was that record in Italy upon which you were satisfied for him to marry your sister? What was his record there as a laboring man and as a man in the community whom you knew? What was that record? A I could say that he was a working man, like every other working man. I could not say anything about his conduct. I didn't know that.

Q And still you testified just a moment ago upon that record in Italy and here you were satisfied to have him marry your sister because of his good reputation?

MR. WASSERVOGEL: That is conceded. We have had i half a dozen times, your Honor.

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THE COURT: Answer it this time, and then no more.

A Why, sure.

Q Now, in answer to the District-Attorney's question, the first question that he put to you about this marriage at the City Hall on the 31st day of March, you stated that the defendant after the ceremony was conducted, or rather, after the license was obtained at the City Hall, that he thereupon stated that he had lost his money. Now, how soon after the license was obtained in the City Hall did he make this statement that he had lost his money and could not have the civil ceremony performed? A About two weeks after.

Q Did you not state to the District-Attorney that upon leaving the City Hall this defendant said that he could not have the civil ceremony performed on account of losing his money? Didn't you testify to that here? A You must pardon me. After this marriage in the City Hall there elapsed about a couple of weeks, and then he said he lost his money and could not get married any more.

Q Will you answer the question? (Question read by stenographer, as follows: "Did you not state to the District-Attorney that upon leaving the City Hall this defendant said that he could not have the civil ceremony performed on account of losing his money? Didn't you testify to that here?")

MR. SINGERMAN: The religious ceremony, I mean.

A I don't remember exactly, but there must have passed about a week or two weeks.

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Q Well, did you ask him at the City Hall, immediately after the civil ceremony was performed, did you ask him to have the religious ceremony performed then and there? A I asked him, yes.

Q And what did he say? Ax He told me that, after three Sundays will elapse, he will get married in a church.

Q After three Sundays? A Three Sundays. That is the custom in Italy, to wait three weeks, and we agreed, because he said that he lost his money; that I would buy the clothes for my sister, and he would provide for his own clothes.

Q Was that all said on this same day that you were at the City Hall? A After about a week or two weeks, I don't remember exactly how long.

MR. SINGERMAN: Mr. Interpreter, I am afraid you don't put the questions properly. I asked him with reference to the conversation that took place at the City Hall when this civil ceremony was performed.

THE OFFICIAL INTERPRETER: The Interpreter puts the questions right.

MR. SINGERMAN: Now, Mr. Witness, I ask you again -- and, Mr. Interpreter, I wish you would interpret this as I ask it --

THE OFFICIAL INTERPRETER: I take my instructions from the Court.

MR. SINGERMAN: I ask the Court to instruct the interpreter to put the question I put.

THE OFFICIAL INTERPRETER: Your Honor, I put the questions

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counsel puts to me. 474 61

THE COURT: There is no criticism, of course. Your duty is to correctly render into the Italian language and with its proper dialect the precise question asked, and then to render in English the precise answer. Now, the interpreter knows that fully. If he is not doing his duty, and I have not the slightest reason to think he is not, I don't suppose you have --

MR. SINGERMAN: I think he is doing his duty conscientiously, but I ask that he put the direct question I put. I mean no offense or no criticism.

THE COURT: I so instruct.

Q (Stenographer reads the question , as follows: "Well, did you ask him at the City Hall, immediately after the civil ceremony was performed, did you ask him to have the religious ceremony performed then and there?")

A No, that could not be, that could not be; that could not be because owing to the fact that in Italy you must wait three weeks before you can get married.

Q Then, there was no conversation relative to a religious ceremony that took place at the City Hall on the 31st day of March, 1915? A We only said that after three weeks elapsed they would get married at the church.

Jul 24 Q Who said that? A The man that first informed me of his wish to marry my sister, the messenger, that is the way we call it.

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Q Then, neither you or Gregorio, this defendant, at that time said anything whatsoever about a religious ceremony to be performed after three weeks, but only the messenger? A The messenger.

Q Then, your previous statement of a conversation between this Giordano, that the ceremony should be performed in three weeks after this civil ceremony, was incorrect? There was no such conversation then between you and Giordano? A I mean to say that I, the messenger and Giordano talked about it, we three persons.

Q Who was the first person to speak? vA First was the messenger.

Q What did he say, and to whom? A The messenger says: "Now, you just wait three weeks, as is customary in Italy, and after that you will get married in the church.

Q And who is this messenger? A Paolo Montarto.

Q And who replied to the messenger's statement as to the custom in the church? A I, the defendant and the messenger.

Q Now, Giordano was satisfied, this defendant, with that proposition, knowing it was the custom of the church, was he not? A Yes, sir.

Q And, as a matter of fact, they really were married according to this religious ceremony, exactly three weeks after the 31st day of March, were they not? A Yes.

Q And they went to live togetheron the very day they were married under the religious ceremony, did they not? A Yes.

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Q Now, when did Giordano first tell you after that that he did not or could not live with your sister because he had lost his money? A Before he got married in the church he said that.

Q When? A I don't remember the day, but it was before they got married in the church.

Q Now, you don't remember the exact date, you say? A I don't remember.

Q According to this custom in your church, the marriage is not considered binding, asfar as your religion is concerned, until the ceremony is performed, is it? A In Italy first they get married at the City Hall, and then they get married at the church.

Q (Question read by stenographer, as follows: "According to this cutom in your church, the marriage is not considered binding, as far as your religion is concerned, until the ceremony is performed, is it? A In Italy first they get married at the City Hall, and then they get married at the church. Q. (Question read by stenographer)" A Why, sure.

Q And, therefore, it is not proper for the contracting parties that the husband and wife live together and cohabit together until three weeks have elapsed and the religious ceremony performed, is it? A No, that is not right.

Q Then, what is the custom, if that is not right? A First they get married at the City Hall. Then three weeks elapse. Then they get married in a church, and then only they

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are man and wife.

Q What do they do in the meantime, before they get married in the church? Do they live together? A No, sir.

Q They are not supposed to live together? A No, sir.

Q And that is the reason your sister went home with you, did she not, after the civil ceremony on March 31st? A Yes, sir, they could not live together.

Q Until the 20th day of April, when the three weeks had expired; is that it? A After three weeks they get married.

Q Now, you don't remember whether Giordano, the defendant, told you that he had lost his money before this civil ceremony on March 31st, or whether it was before the religious ceremony, on the 20th day of April, do you? A No, first he got married at City Hall, and then he had the money. After he got married at City Hall he said that he lost his money and he could not get married, and he is sorry that he got married.

Q Then, your statement to the District Attorney that it was two weeks after this civil ceremony at the City Hall that he told you that he had lost his money was incorrect?

MR. WASSERVOGEL: He said a week or two, he didn't remember.

MR. SINGERMAN: I ask the stenographer to read it.

MR. WASSERVOGEL: Don't argue. Go ahead.

Q (Question read by the stenographer, as follows: "Then your statement to the District-Attorney that it was two weeks after this civil ceremony at the City Hall that he told you

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that he had lost his money, was incorrect?") A Why, certainly it is true. He told me that he lost the money. I do not know if that was an excuse, or if that was true, that he lost the money. I said to him, after he was married at City Hall, "Now, you say you don't want to get married. Now, you say you lost the money."

Q You answered my question by saying now that it is true that you told the District-Attorney that it was two weeks, is that correct, two weeks after this civil ceremony that he made this statement? A I don't remember how long it was. I don't remember how long it was, but he told me he lost his money.

Q You regard this religious ceremony as more important and a more difficult thing to enter into than the mere civil ceremony, do you not, the more difficult for the parties to comply with the religious requirements, more binding, do you not? A Married is binding when you are married at City Hall and not the church, then they are man and wife.

Q Then, according to this law of your religion, you did not look upon Giordano as obliged to support his wife until the religious ceremony was entered into; was that correct? A Sure. Certainly, sure. It is impossible to get married only at one place. You must get married at the City Hall and at the church, and then they are man and wife.

Q Now, on the night of August 10th, you say that your sister called at your house at about eight o'clock? A Yes, sir.

Q And she was alone when she called? A Alone.

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Q What time did she leave? A She remained there about ten minutes, no longer than that.

Q Which way did she go from your home, in what direction? A She went downstairs and she went by herbusiness, and I remained home. I do not know which direction she went to.

Q What floor do you live on in this house? A First floor one flight up.

Q So, you didn't know in which diection she had gone when she left? If that be true, how do you know she went from your home with her husband, as you have testified in answer to the District-Attorney? A I couldn't say that she went with the husband to the house. A person saw him downstairs. The person says that he went with my sister.

MR. SINGERMAN: Now, I ask your Honor to strike out the testimony heretofore given by this witness where he stated the defendant left his house with the deceased on the 10th day of August, 1912.

MR. WASSERVOGEL: That is consented to.

Q Now, will you state to this jury what there is about this particular shoe-last, People's Exhibit No. 2 now in evidence, will you state what there is particularly about that she last that enables you to identify it as the shoe-last belonging to this defendant? A Because there is an empty space here (witness indicates empty space on last).

Q Did you ever see this shoe-last before (handing another shoe-last to witness)? A No, sir.

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Q Never saw that before in your life? A No, sir, I did not see that.

Q How many shoe-lasts did the defendant have in his home when you knew him, or on August 10th? A One.

Q And you identified it as the one because of the opening as you say here in the shoe-last? A Yes, sir.

Q That is the only means of identification that you have? A Yes, sir.

MR. SINGERMAN: I ask this be marked for identification.

MR. WASSERVOGEL: Mark it People's Exhibit for identification.

(Same marked People's Exhibit No. 12, for identification, of this date).

Q Do you own a shoe-last similar to this, or an iron shoe-last which you keep in your home? A No, sir, I never did.

Q Do you know whether it is a custom for Italians, particularly Italian laborers, to keep shoe-lasts in their own homes which they use for purposes of riveting nails or tacks in shoes?

THE COURT: I don't think that is proper.

MR. SINGERMAN: It would why this defendant had a shoe-last.

THE COURT: Well, you may argue that, I think, without comments. If it was the custom and if nine hundred Italian possessed lasts, it would not follow that this

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defendant possessed it. It certainly is not competent to prove custom among Italians in that regard.

MR. SINGERMAN: Then, I will withdraw it.

Q How many shoe lasts did the defendant have upon his premises, to your knowledge, on August 31st, or prior thereto? A One, one.

Q I desire to amend that question. On the 10th of August, or prior thereto, how many shoe lasts did the defendant have in his possession or upon his premises, to your knowledge? A One (witness indicates by holding up his right index finger).

Q During your lifetime, how many shoe-lasts have you seen in the homes of your Italian friends?

THE COURT: Now, you are brining in the very thing I said was unnecessary.

MR. SINGERMAN: My purpose is this; I am going to show this is a common form of shoe-last, and this witness has probably seen any number of shoe-lasts with the same opening in them.

THE COURT: It is conceded to be a common sort of shoe-last.

MR. WASSERVOGEL: Yes, we will go further and concede the defendant was in the habit of mending his own shoes, if counsel sees fit.

MR. SINGERMAN: That is a concession I thank you for, and I would like to have it on the record.

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THE COURT: Take that concession, and rest there.

Q Have you ever seen any other shoe-lasts with the same opening found in this last? A I am not going around to look for them. I didn't see them.

Q How many times did you see this shoe-last before today? A I saw them lots of times, under the table.

Q Now, you swear that it was not this shoe-last known as People's Exhibit No. 12 for identification that you saw? A No, that is not the one.

Q Are you quite sure of that? A This is new. The other one was old.

Q You consider that a new shoe-last? A Sure.

Q Now, you stated on direct examination that it was Monday, the 11th of August, that you went to the defendant's house and asked him whether your sister was home. Had you been in the custom of going to the house of this defendant and asking that question during the time that they were married? A Sure, between brother and sister. She was coming to my house, and I was going to her own house.

Q What time of day was this that you went to his home? A I don't rememberif it was six, half past six, or five o'clock.

Q Where were you working on Monday, the 11th of August? A Mr. Joyce, contractor of the Metropolitan.

Q And where were you working? A I couldn't mention the name, but the street that goes across the Bowery.

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Q How long would it take you to get from that place to your home? A About a quarter of an hour, or half an hour, but no more than twenty minutes.

Q And did you go directly home from your work on the 11th day of August? A I passed in front of my sister's house, and I found everything closed.

Q That is not the answer. He is answering some other question entirely. Did you go directly home from your work on the 11th of August?

THE OFFICIAL INTERPRETER: That is exactly the question I put, and I gave the answer the witness gave me.

Q Did you go directly home from your work on the 11th of August? A As I was passing I passed in front of my sister's house, and I went in.

MR. SINGERMAN: I move that be stricken out as not responsive.

MR. WASSERVOGEL: I think that is responsive.

THE COURT: I think the interpreter has tried hard to get "yes", or "no" from him, and has failed. Now, if that is reasonably responsive, let it stand.

MR. SINGERMAN: My interpreter says the interpreter is entirely conscientious, but that the witness evades and won't answer directly.

THE COURT: I think that is a fair statement.

Q So, you did not go directly home from your work on the 11th of August? A I was going directly to my house, but

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as I passed in front of my sister's house I went in and I asked him where was my sister, and he told me that she was working.

Q Did you ever do that before in coming from your work, go directly to your sister's house first? A Sure.

Q Does it take more time to go to your sister's house and then to your home, or is it quicker to go to your home first from your work? A The same time. The same road.

Q Do you know any particular reason for going to your sister's home first on the 11th day of August, before you reached your own home, after working all day? A No. A brother could visit his sister at any time at all.

Q What time did you quit work on the 11th of August?

A At five o'clock.

Q At five o'clock. You are sure of that? A Yes, sir.

Q Then, it was impossible for you to be at your sister's house at five o'clock, was it? A I said at six o'clock.

Q Did you not say a moment ago you were there either at five or after five or at six? A I didn't have no watch in my hand. It may have been six o'clock; it may have been a quarter to six.

Q But it could not have been five, could it?

MR. WASSERVOGEL: That is conceded, that it could not have been five.

A At five o'clock I stopped work. It could not have been five o'clock.

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Q Is it not a fact that on the night of the 11th of August, in the neighborhood of six o'clock on the evening of that day, that this defendant came to your house, and not that you went to his house? A I was not home.

MR. SINGERMAN: (To the interpreter) Tell him to answer that question, whether he knows whether this defendant called at his house, and at about what time.

THE WITNESS: I don't know if he came to my house. I do not know if he came to my house, but I went to his house.

Q Were you home at six o'clock on that day? A Yes, I was home about six, or a quarter past six. I had no watch in my hand.

Q Did your wife tell you at that time that Giordano, this defendant, was at your home before you got there, inquiring about his wife, whether his wife had been there? A I don't remember.

Q You don't remember that? Sure you don't remember that? A I don't remember if she told me that.

Q You won't say she did not tell you that, will you? A I don't remember.

Q Is it not a fact that immediately after that you went out to hunt Giordano and left your home? A Yes, yes.

Q And didn't you go with Giordano to various neighborhoods and inquire whether they had seen the deceased? A Yes.

Q That is true, isn't it? A Yes.

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Q Didn't you go with him to the shop where she had been working? A Yes, sir.

Q It was getting quite late when you got there making inquiries, was it not, and you went home with Giordano? A Yes.

Q You did not at that time accuse him of this crime, did you? A I couldn't say it, because I didn't see him killing hi wife. If I would have seen him kill my sister, I would have killed him.

Q You kept making inquiries with him after that, did you not, in conjunction with him, to find out what became of your sister? A Yes.

Q You knew your sister had been working for some time prior to this occurrence, did you not? A Sure.

Q How long did you know she was working? A I know that my sister was working. I didn't live with her. I lived in Elizabeth Street, and she lived in Mott Street.

Q And where was she working? A A rag shop.

Q Whereabouts? A Canal Street.

Q Now, knowing that to be a fact, will you explain to thi jury why you have testified, in answer to the District-Attorney's question, that when you went to the home of your brother-in-law you asked him where your sister was working? A I didn't know before where she was working. He took me there.

Q Now, do you mean to contradict your testimony, sir? A I didn't know where she was working. I didn't know where she was working.

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Q And you mean to say that first you testified you knew that she was working in a rag shop, and you told me the street, and now, in the same breath, you mean to say you did not know it?

MR. WASSERVOGEL: You have not got that right, Mr. Singerman.

MR. SINGERMAN: I have it very positively from his lips. He testified, in answer to your question, he did not know; he asked his brother-in-law where his sister was working, and his brother-in-law said in a rag shop. Now he testifies he did know where she worked.

THE COURT: Now, it is quite improper for you gentlemen to address one another, no matter how politely, if you wrangle one with another. Don't do it. If you have any objections, address them to the Court.

MR. SINGERMAN: I have no further questions.

MR. WASSERVOGEL: It is conceded for the recordthat the civil marriage was performed on March 31st, 1913, at the City Hall, by Alderman James J. Smith, and that the religious ceremony was performed by the Rev. Frederick Barney, Pastor of the Catholic Church of Transfiguration, at 29 Mott Street, on the 20th of April, 1913.

J O S E P H I N E C U C C E, called as a witness on behalf of the People, being first duly sworn and examined through the official interpreter, Diadato Villamena, testified as follows:

DIRECT EXAMINATION BY MR. WASSERVOGEL:

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Q What is your full name? A Josephine Cucce.

Q Where do you live? A 58 and 60 Elizabeth Street.

Q Were you acquainted with Salvatora Giordano? A Yes, sir.

Q Was she related to you in any way? A No, sir.

Q Did you see her on the 10th of August of the present years? A Yes, in my house.

Q And where was your house at that time? A 58 and 60 Elizabeth Street, second floor, I lived.

Q How long had you known this woman at that time? A From the time that she got married.

Q And when was that? A I don't remember the day.

Q Do you remember how many months, about how long? A I don't remember.

Q Do you remember what day of the week this was that you saw this woman at your house the last time? A Yes, sir.

Q What was it? A 10th of August, Sunday.

MR. SINGERMAN: I understand the witness can speak English.

MR. WASSERVOGEL: We will try her.

Q Do you understand English, Madam? A No.

Q Now, see whether you do. What time was it that she was at your house? Do you understand that? A (In English) half past seven.

(The following testimony is given by the witness in English).

Q Half past seven? A Yes, sir. I don't understand.

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Q Try. We would rather have you talk English and if you don't understand me we will have the interpreter put it to you. How long did she stay in your house? A Before eight o'clock.

Q About eight o'clock she went away? A Before eight.

Q How long before eight? A I don't know.

Q A few minutes before eight? A Yes.

Q Do you remember how she was dressed at that time? A I don't remember. She had a blue skirt on all the time, and a white waist.

Q Did she wear a hat? A Yes.

Q What? A I don't remember for sure, that night.

Q You don't remember whether she had a hat, or not, do you? A (No answer).

Q You say she had a blue skirt on? A Yes, because I saw her so many times with a blue skirt.

Q Skirt like this one I have here (exhibiting skirt to witness)? A Yes.

Q Is that the skirt? A Yes, like this.

Q And do you remember that she went away with anybody from your house? A No.

Q What? A No.

Q Did you see the defendant that night at all? A (Through the Official Interpreter) No, I didn't see him.

Q Did you see him the next night? A Yes, Monday evening.

Q Where did you see him then? A In my house.

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Q He came up to your house? A Yes, sir.

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

Q What was said by him and by you? A He asked me if his wife had some disease. I said to him, "No, she was here last night I wrote a letter for her."

Q Did you ask him when he had seen her last? A Yes. He says that she went to work and she did not come home yet.

Q Do you recognize either of the rings which I show you (showing rings to witness)? A Yes, sir.

Q Which one? Both? A This one here (pointing to large ring).

MR. WASSERVOGEL: I ask that be marked for identification.

(Same marked People's Exhibit No. 13, for identification, of this date).

MR. WASSERVOGEL: Will you concede the deceased wore this ring on the night of her death?

MR. SINGERMAN: Yes, I don't dispute it.

MR. WASSERVOGEL: It is offered in evidence.

(Received in evidence and marked People's Exhibit No. 13, of this date).

MR. WASSERVOGEL: Cross-examine.

CROSS-EXAMINATION BY MR. SINGERMAN:

Q You say you wrote a letter for the deceased at her request? A Yes, sir.

Q To whom did you write that letter for her? A The

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brother.

Q Did the deceased particularly ask you, in the writing of that letter, to mention the regards of her husband, the defendant? A Yes, sir.

MR. SINGERMAN: That is all.

RE-DIRECT EXAMINATION BY MR. WASSERVOGEL:

Q What brother was that letter written to? A A brother in Chicago.

Q Not to this brother who was on the witness stand here a few minutes ago? A No, no; the other brother.

MR. WASSERVOGEL: That is all.

RE-CROSS-EXAMINATION BY MR. SINGERMAN:

Q By mentioning the regards of this defendant, I meant the defendant to the brother in Chicago; that is what you understood, did you not? A Yes, about the regards of the brother and the husband.

Q Did this deceased complain to you about her husband in any way? A No, sir.

MR. SINGERMAN: That is all.

F R A N C E S C A L A M B I A S E, called as a witness on behalf of the People, being first duly sworn, and examined through the official interpreter, Diadato Villamena, testified as follows:

DIRECT EXAMINATION BY MR. WASSERVOGEL:

Q What is your name? A Francesca Lambiase.

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Q Where do you live? A 54 Elizabeth Street.

Q And did you live there on the 10th of August, of the present year? A Yes, sir; I am the janitress.

Q Did you know this defendant , Giordano? A I know him by sight.

Q Did you know his wife, Salvatora Giordano? A Yes, she was coming every day to see her brother.

Q Did you see her at all on ~~the night of the~~ 10th of August of this year? A Yes, sir, it was Sunday, in the evening.

Q And about what time did you see her? A About eight o'clock in the evening.

Q And where were you when you saw her? A I was in my house.

Q And where was she? A I lived just across the hall from them, and I saw her when she said good-bye to her sister-in-law.

Q Her sister-in-law lived in the same house? A Yes, sir.

Q And did you see the defendant at that time? A No, sir.

Q Did you see the defendant at all with her? A I heard the deceased say "Good evening, my husband is calling me."

Q Did you look out the window? A No, sir.

Q Did you hear anybody calling this woman, Salvatora Giordano? A Yes, sir, I heard him twice call her, at eight o'clock in the evening.

Q Who did you hear call her? A The husband, in front of the door there, calling her.

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Q You know that, do you? A Sure, sure, I heard him, but I didn't see him. I heard her say "Good night, good night, my husband is calling me; he wants to take me out to walk".

THE COURT: I suppose we may as well stop at this time.

MR. WASSERVOGEL: Yes.

THE COURT: (To the jury) Do not talk about this case, nor permit anyone to talk to you about it, nor form nor express any opinion thereon, until the case shall finally be submitted to you. Two o'clock, please.

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

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AFTER RECESS.

GREGORIO SCOLLA, called as a witness on behalf of the people, being first duly sworn and examined through the official interpreter, Diadato Villanena, testified as follows:-

DIRECT EXAMINATION BY MR. WASSERVOGEL:

Q What is your name? A Gregorio Scolla.

Q Where do you live? A The number of the house is 208; I don't know the name of the street.

Q What is your business? A I work now in a candy factory.

Q Do you know this defendant? A Yes, sir.

Q How long have you known him? A From the time that I am in America.

Q How long is that? A Fifteen months.

Q Did you know his wife? A Yes, sir.

Q Did you see the wife of the defendant on the night of the 10th of August of this year? A Yes, sir.

Q Do you know what day of the week that was? A Sunday.

Q And about what time did you see her? A I saw her about half past seven or a quarter to eight, no more than that.

Q And where did you see her? A In Mott Street.

Q Do you remember near what number? A Near No. 125.

Q And was anybody with her at that time? A The defendant and his wife, and I was there with my brother.

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Q With your brother? Did you speak with the defendant, or with the defendant's wife? A Yes, I spoke to him and we spoke about society.

Q Do you know whether the defendant's wife carried anything on that occasion? A Yes, a bag and a bundle with a newspaper around it.

Q Is this the bag, a bag like this (handing article to witness)? A I don't remember if that was the bag, or a smaller bag than that; I don't remember.

Q Was it a bag like this? A Yes, it was black, yes.

MR. WASSERVOGEL: Mark it for Identification.

(Same marked people's exhibit No. 14, for Identification, of this date)

MR. WASSERVOGEL: Cross examine.

CROSS EXAMINATION BY MR. SINGERMAN:

Q At the time that you saw the defendant, was his wife with him, or did she come up later and join you? A No, his wife come after.

Q After he had stopped and talked with you and your brother? A Yes, about two or three minutes.

Q Did either the defendant or his wife say where they were going before they left you? A No, sir.

Q You are quite sure that neither one of them told you or your brother in your presence that they were going to their home? A No, they didn't tell me nothing.

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Q Do you know where they lived? A No, sir.

Q Never knew where they lived? A No, sir.

Q Now, you spoke to them near 135 Mott Street, you say, near 135 Mott Street. Were they going south, or north, from that point? A 125, Mott Street, not 135.

Q Were they going south, or north, from 125 Mott Street? A Up-town.

Q Up-town? A Yes.

MR. SINGERMAN: That is all.

L E O P O L D S T I G L I A N O, called as a witness on behalf of the people, being first duly sworn and examined through the official interpreter, Diadato Villamena, testified as follows:-

DIRECT EXAMINATION BY MR. WASSERVOGEL:

Q What is your name? A Leopold Stagliano.

Q Where do you live? A 56 Elizabeth Street.

Q Do you speak English? (In English) Not much, no.

Q See whether you can understand my questions, and if so answer them in English? A (In English) No, I speak Italian.

Q If you don't understand me, we will have the interpreter help us out. What is your business?

A (In English) Saloon keeper.

Q And where is your saloon? A (In English) 56

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Elizabeth Street. here 474

Q Do you know this defendant, Gregorio Giordano?
A (In English) Yes.

Q How long have you known him? A (In English) A couple of months.

Q And did you know his wife? A (In English) No.

Q You never met his wife ? A (In English) No.

Q Did you see this defendant at any time after the 10th of August of this year? A Yes, sir.

Q Do you remember when it was? A In the morning of the 12th, Tuesday.

Q And who was with him at that time? A His brother-in-law and another man named Montalto.

Q Did you have a talk with Gregorio on that occasion? A Yes, sir.

Q What did he say and what did you say? A In the morning of the12th I was near the door of my bar-room, leaning with my back against the door of the bar-room, when this defendant, and his brother-in-law and another countryman of his came in the store, and this defendant says to me, "I want to talk to you", and I was reading the paper at that time. I put down the paper a little bit (witness at this moment leaves the witness chair and goes to where the interpreter is standing and puts his shoulder against the railing of the court bench). I was standing this way, when he says to me, "I want to talk to you", and he told me, "yesterday morn-

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ing my wife left the house to go to work, and she did not come back any more;"and I said to him, "what is the trouble? Did you beat your wife? Did you give her nothing to eat?" I started to laughing. I thought it was one of the quarrels that a husband and wife has and the wife left him, and he says, "No, nothing of the kind; she went to work and she didn't come back any more". Then I said to him, "how could that be? Your wife went to work, you say? " He said, "yes, she took the gold, all the jewelry that was in the house, and went to work." I said to him, "then I will tell you what to do. You better go over to the station house and inform the police about it, because there is a sargeant of police named Carrap that is an Italian and he will try to find out the truth about these things." In the meantime, I was reading the paper, and I said to him, "Here in the paper it says a woman was found dead". He says, "let me see". I showed the paper to him, and he says, "that may be my wife".

Q Is this the paper (handing witness people's exhibit No. 11 for identification)? A Yes, sir.

Q And did you show the defendant that paper? A Yes sir.

MR. WASSERVOGEL: This paper is now offered in evidence.

MR. SINGERMAN: I don't see the relevancy of it, if your Honor pleases. I object to the paper going in evidence, on the ground it is incompetent, irrelevant and immaterial; it is not binding upon this defendant.

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It is not within the issues in any sense.

MR. WASSERVOGEL: This is a newspaper which contains an account of the death of the defendant's wife, and has her picture in it, and the witness says he had a conversation with the defendant regarding this very paper.

THE COURT: Well, mark it for Identification.

MR. WASSERVOGEL: It is already marked for Identification. I now offer it in evidence.

THE COURT: We will receive it in evidence, not for the purpose of reading the account.

MR. WASSERVOGEL: Certainly not, oh, no.

THE COURT: Not in that the statements are binding on the defendant, but for the purpose of enabling the jury to understand the meaning of this conversation. As an instrument it may be offered in evidence, but not as a document.

MR. SINGERMAN: For that purpose, I have no objection.

MR. WASSERVOGEL: Only for that purpose.

(Received in evidence and marked People's Exhibit No. 11, of this date).

Q Do you recall anything else said by you or by the defendant or by any other person who was present? A I advised them again to go to the station house, and they told me that

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were
they already to headquarters, and they told them to come back there about one o'clock. They went away after that, but after a little while the brother-in-law of this defendant came back in the saloon and says --

Q Don't tell us what the brother-in-law said, if the defendant was not there. What did the defendant say when you showed him this newspaper with the picture in it, People's Exhibit No. 11? A He looked at the newspaper, and he remained still for a little while; he didn't say nothing.

Q And then? A And then they went away.

Q Did he say anything at all to you about this picture? A No, nothing.

Q Did you see the defendant after that at any time? A Yes, I saw him in the street the same day and the day after, but not inside of the saloon.

Q Did you talk to him after that at any time? A No, sir.

MR. WASSERVOGEL: That is all. Cross examine.

BY THE THIRD JUROR:

Q Was it on Tuesday morning, August 12th, that this conversation took place in the saloon? A Yes, sir.

Q And did the defendant say that his wife had gone to work the morning previous to that? A Yes, Monday morning.

BY THE SECOND JUROR:

Q You said that the defendant said-- when you said

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a woman had been found dead, the defendant said, "that may be my wife", was that before he saw the paper? A He didn't see the picture; I was reading, but the defendant didn't see the picture when he said, "that may be my wife".

BY MR. WASSERVOGEL:

Q Before he saw the picture, the gentleman wants to know whether it was before he saw the picture, or after he saw the picture? A Before he saw the picture -- after I showed the picture to him.

MR. WASSERVOGEL: Put the question to him again, and let us get it right.

THE WITNESS: He said it before, but I had the newspaper in this position (Illustrating) reading, and put the paper in front of him; them three were in front of me; he may have seen the picture before, but I did not show the picture to him. I showed the picture to him after he said that.

CROSS EXAMINATION BY MR. SINGERMAN:

Q What do you mean by saying that he may have seen the picture before? Do you mean the picture of this particular newspaper that you had? A Yes, the picture in the newspaper, yes.

Q In this particular newspaper that you possessed?

A Yes, certainly.

Q So that, you mean to say that while Giordano was

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at your saloon on this particular day, the 12th of August, that he may have seen this picture in this particular paper that you had in your possession, and then, when you started to read the article, that he looked at the picture again and said, "that may be my wife"? Is that what you mean to say? A No, I couldn't say that; I don't know if he looked at the picture or not.

Q And you won't swear that he did not look at the picture? You won't swear that he did not look at that picture and recognize it before he said, "that may be my wife"? A No, sir, this I could not state, but I said to him, "you better go to the police station, because here the newspaper says a woman was found killed, up-town. You go there and explain the matter, and you will get out any responsibility."

Q Did you give him the newspaper to take along to the police sergeant? A No, sir.

Q Why did you make the remark that "you may get out of any responsibility if you go to the police and explain it". A Because he told me she had all the jewelry with her, and I told him to go to the police.

Q He told you that he had all of her jewelry?

A That she had the jewelry.

Q Do you know a man by the name of Barone?

A I know a good many Barones, but I couldn't tell you who he is.

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Q Do you know a man who claimsto be a brother-in-law of Giordano by the name of Barone, a brother-in-law?

A Bultono is the name of the brother-in-law of this defendat, but not Barone.

Q Do you know him under that latter name? A Yes, I know him as Bultono.

MR. WASSERVOGEL: He knows a Bultono.

MR. SINGERMAN: They are two separate parties.

MR. WASSERVOGEL: Yes, different men.

Q Did you have a conversation with any one outside of this man Bultono whom you have just name in which you recommended a lawyer to this party for the defendant, after he was arrested? A No, sir, I spoke to no one. I don't remember speaking to any one about a lawyer.

Q Do you recall making any remark to any person that your lawyer could get him out of this trouble easily, as he was not implicated to any extent, that you recommended it?

A I don't remember ever talking to any one about this kind of a conversation.

MR. SINGERMAN: That is all.

F R A N C E S C A L A M B I A S E, being recalled, testified, through the official interpreter, Diadata Villamena, as follows:

DIRECT EXAMINATION CONTINUED BY MR. WASSERVOGEL:

Q You told us this morning, Mrs. Lambiase, that you

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saw Mrs. Giordano on the night of the 10th of August, this year. You remember that, don't you? A Yes, yes.

Q Did you see her husband after that day? A Yes sir.

Q When did you see him after that day? A I saw him the next day and the day after; he was coming there to get his brother-in-law and look for the wife.

Q The next day was August 11th, wasn't it?

A 11th, 12th and 13th, them three days.

Q On the 11th ~~of August~~, did you have a talk with him?

A Yes sir.

Q What did you say and what did he say? A He says to me, "did you see my wife?" I says, "no. Where is she". He said, "I don't know. She went to work with some woman; I don't know if she make seven or eight dollars a week, but I am afraid some loafer may tackle her, and they may want one hundred dollars from me to getback my wife, but I aint got any money".

Q Did he say when she had gone to work, do you remember?

A He says to me that about half past seven that morning, Monday morning, two women went over to his house and took his wife out to work, saying that she would make seven or eight dollars a week.

Q Did you have a talk with him the next day, Tuesday?

A Yes, Tuesday he knocked at the door; I am the janitress; I heard the noise and I came out and I said to him, ""what do

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you want". He says, "I am looking for my brother-in-law, because I am looking for my wife".

Q Did he say anything else? A If they wanted money, they could do as they feel like, because, "I haven't got a penny; they could even kill us, because I haven't got any money".

Q Did you have any other conversation with the defendant that you now remember? A No; that is all.

MR. WASSERVOGEL: Cross examine.

CROSS EXAMINATION BY MR. SINGERMAN:

Q On what day do you say this conversation took place in which Giordano said to you that two women took her away from the house on Monday morning so that she could earn seven or eight dollars? What day was that? A Tuesday morning, about ten o'clock.

Q How did Giordano come to tell you this Tuesday morning? A It was in the morning. I heard him there in the hallway, and I asked him several times, and I said to him, "did you find your wife?" And he told me that, that two women came and got her, that she may be lost. I said, "may be she is at the factory." "I went there", he says to me, "but she is not there"?

Q His brother-in-law, Bontorno, and his wife lived in the same house, did they not, where you were janitor?

A Yes, sir.

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Q Now, on Monday, did you see Bontorno, the brother-in-law, with Giordano about the premises? A No, sir, I didn't see them together. I saw the brother-in-law of the defendant come and inquire about the sister and come home alone.

Q Did he inquire of you about her? A The brother-in-law of this defendant told me, "what could I do? Where could I go to find my sister?" And I said to him, "go to the station house and inquire there; they may know something about it"; and he says to me, "I am willing to spend anything to find my sister; she is my sister; I am willing to sacrifice my life."

Q When was that? A Tuesday evening, in the evening.

Q On the 11th, Monday, you state that you saw the defendant. What time of day was that? A Monday evening I saw the brother-in-law of this defendant. He told me about his sister's loss. Tuesday morning, about ten o'clock, I saw this defendant.

Q Then, you did not see this defendant on Monday, the 11th, as you testified a little while ago in answer to the District Attorney? A No, I didn't see him Monday morning.

Q Did you see him Monday evening? A The brother-in-law of the defendant I saw, but I didn't see him.

Q Then you were mistaken when you told the District Attorney that you saw this defendant on the 11th, the 12th and the 13th? A Maybe I made a mistake in the number, but I

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meant to say just exactly what I said just now.

Q About what part of the premises were you at half past five or thereabouts on the evening of the 11th day of August? A In my house.

Q What floor do you occupy in your house? A One flight up, in the front, first floor.

Q That is the same floor occupied by the defendant, is it not, on the same floor occupied by the defendant? A Not the defendant. The brother-in-law.

Q The brother-in-law, but not the defendant? A Yes.

Q What floor does the defendant occupy? A I do not know.

Q Does he live in the house? A No.

Q There is a saloon upon the premises, is there not? A No, sir, a shoe-maker shop, no saloon in the premises where I live, there is no saloon. There is a saloon in one of the houses where I am janitress, but not in the house where I am living.

Q Is the saloon in the immediate adjoining house? A Yes, sir.

Q About how many feet away is the saloon from the place where you stood when you talked with the deceased on Sunday night, the 10th of August? A I am not an engineer. The saloon is next door, and I was talking to the woman right in front of my door.

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Q Could you hear people talking in this saloon from where you stood at the time you spoke with the deceased? A No, sir.

Q Quite sure that there were not loud noises coming from voices in the saloon at that time? A No, sir.

Q Now, how many times had you spoken with this defendant prior to August 10th? A Before, never.

Q You never spoke to him? A I saw him, I looked him in theface, but I never spoke to him.

Q Will you explain to this jury how you recognized the voice, as you have testified here, on the night of August 10th, when the deceased said to you that her husband was calling and she would have to leave? A I heard his voice many times when he came and knocked at the door there and called my brother-in-law, my brother-in-law, and then, besides that, I heard his voice and his wife saying "my husband is calling me; I have to go".

Q That is, the defendant's wife told you that her husband, the defendant, called her on that occasion? A Yes.

Q And you believed it because she told you? A Yes, she says to me, "good-bye", even said good-night to me, "I must go, my husband is calling me".

Q How long had you talked with her before you bid her good-night? A About five minutes, a very little time, the time that she was talking with her sister-in-law, she

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kissed the baby. First I heard the whistle of the defendant; I don't know that it was him, because I didn't recognize the whistle, but the voice I did recognize; and then the deceased said to the sister-in-law, "come along with me, my husband is going to take me out for a walk", and she said, "I couldn't go because the baby has got a sore arm." (Witness points index finger to the left arm)

Q Now, what was the exact time, if you know, when this happened? A About eight o'clock. That was the last evening that I saw her. I didn't see her any more after that.

Q And how do you know it ~~was eight o'clock~~? A Because she said it was eight o'clock, and when she says eight o'clock, I turned around and looked at the clock. I thought it was late, and I saw it was eight o'clock.

Q At the time of this conversation, on Tuesday, Tuesday morning at ten o'clock, besides yourself who was present that overheard what this defendant said? A I was alone.

Q Was that in your own apartment? A I was all alone. My daughter was in the room, was going up and down in the room; I don't know if she heard the conversation or not.

Q Is your daughter here to-day? A Yes.

Q Do you usually clean your house in the morning, as janitor? A Inside my own rooms, I clean. Outside my husband attends to.

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Q You attend to the halls inside? A Only my own, no others. My husband does everything else, painting and cleaning.

Q You are very friendly with the brother-in-law of the defendat, are you not? A No, sir, none of the two are friends of mine; I only know the brother-in-law for two months, no more.

Q During that time, have he and his wife visited you ~~in your apartment~~? A No, sir, we only say good-night. I am not talking too much with the people.

MR. SINGERMAN: That is all.

BY MR. WASSERVOGEL:

Q Is your daughter here? A Yes.

J O S E P H I N E B R U N O, called as a witness on behalf of the people, being first duly sworn, testified as follows:-

DIRECT EXAMINATION BY MR. WASSERVOGEL:

Q What is your name? A Josephine Bruno.

Q Where do you live? A 54 Elizabeth Street.

Q You are a daughter of the last witness, are you not? A Yes, sir.

Q Are you a married woman? A Yes, sir.

Q Recently married, are you? A Yes, sir.

Q Do you know this defendant, Giordano, and did you ever see him? Just answer "yes", or "no"? Did you ever see him before to-day? A ~~Yes~~, sir.

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Q Did you know his wife? A Yes, sir.

Q Do you remember seeing his wife on the 10th of August of this year? A Yes, sir.

MR. SINGERMAN: I object to the form of the question. I think it is peculiarly leading, inasmuch as that is a very vital point.

MR. GASSERVOGEL: All right.

Q Do you remember when it was, what day of the week, that you last saw Mrs. Giordano? A Monday.-- Sunday night.

Q On a Sunday night? A Yes sir.

Q Do you remember of your own knowledg the day of the month, what date it was? A Well, I don't recall the date, but I know it was on a Sunday night in August.

Q Sunday night in August? A Yes, sir.

Q And where was the woman when you saw her? A She was next door to where I live.

Q And did you see her go away? A Yes, sir.

Q What time of the day was it that you saw her there? A Eight o'clock in the evening.

Q Did you see Giordano also? A Yes, sir, by the door.

Q Where was he? A Down stairs, by the door.

Q And did you see them go away together? A Yes, sir.

Q You don't know where they went to, of course? A No, sir.

Q Did you ever see the woman after that day? A No sir.

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Q Did you hear anything about the woman's disappearance after that? A Yes, sir.

Q When did you hear that? A The next day.

Q The next day? A Yes, sir.

MR. WASSERVOGEL: Cross examine.

MR. SINGERMAN: No questions.

F R A N C I S E. H A W K I N S, police officer, attached to the Thirty-sixth Precinct, Detective Bureau, called as a witness, on behalf of the people, being first duly sworn, testified as follows:-

DIRECT EXAMINATION BY MR. WASSERVOGEL:

Q. What is your full name? A Francis E. Hawkins.

Q You are a police officer connected with the Municipal Police Department of the City? A I am.

Q And have been for how long? A Seventeen years.

Q Attached now to the detective Bureau? A Yes, sir.

Q And were you attached to the detective bureau in August of this year? A I was.

Q Did you have anything to do with the investigation of the facts in this case? A I did.

Q Do you recall the 10th of August, officer Hawkins? A I do.

Q Do you remember what the weather conditions were that evening? A I do.

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Q Can you tell us? A In the afternoon between half past three and four, a violent wind storm accompanied by rain. The wind was of such great force that it blew down numbers of trees and the wires principally on the west side.

Q Keep up your voice? A The wind was so strong that it blew down large trees and interfered with the wires principally on the west side along the Hudson River. The storm and rain continued until about half past six, and later in the night, between ten and eleven, it started again to rain.

Q Did you ever go to the home of this defendant, Giordano? A I did.

Q When? A Can I refer to my book?

MR. WASSERVOGEL: Yes, surely. You don't object to that, do you?

MR. SINGERMAN: No.

THE WITNESS: (Referring to book) Monday, August 25th.

Q And did any one accompany you there? A Yes sir.

Q Who? A Detective Cassidy, detective Hyman and afterwards John B. Digillio.

Q Did you ever see these shoes (handing witness people's exhibit No. 9 for identification) ? A I did.

Q Where did you find them? A On the second floor of the rear apartment house 137 Mott Street.

Q In the rooms of this defendant? A Yes sir.

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Q And did you at any time subsequent to that have a conversation with the defendant regarding these shoes, people's exhibit No. 9 for Identification? A Yes, sir.

Q What was said about them? A I brought the shoes to Bellevue Hospital, and there DeGillio, an Italian speaking officer, in answer to the question he put the defendant, ~~xxx~~ "is them your shoes?", he nodded his head and said something in Italian.

Q You don't know what he said? A No, but he nodded his head, "yes".

Q And Degillio was the one who interpreted for you? A Yes, sir.

MR. SINGERMAN: I move to strike that out.

MR. WASSERVOGEL: Never mind. We will have Degillio tell us that.

Q Now, did you ever go from 133 Mott Street to the scene of this crime? A Yes, sir.

Q Did you take one trip? A Yes, sir.

Q When did you do that? A Sunday, August 24th.

Q And what time of the day was it? A It wasin the evening, at six minutes past eight.

Q What course did you take in order to go from 133 Mott Street to 207th Street, the upper road, where this crime was committed? A I left in front of 133 Mott Street at six minutes past eight, and walked north on Mott Street to

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Spring, west on Spring to the subway station, and took a local train to Fourteenth Street, and there I changed for a Van Cortlandt express train, and rode to 207th Street, and got off and walked west up through the woods to the scene of the crime, and reached there at nineteen minutes past nine.

Q So that, it took you one hour and thirteen minutes, did it, from eight six until nine nineteen; is that correct? A Yes, sir.

Q Did you ever see this hand bag, people's exhibit No. 14, for identification (handing same to witness)? A Yes sir

Q Where did ~~you~~ find it? A In the second floor of the rear tenement house 137 Mott Street.

Q The defendant's premises? A Yes, sir.

Q Did you ever see this bomb, people's exhibit No. 8 in evidence (handing same to witness)? A Yes, sir.

Q Where did you find that? A In this apartment of the defendant, under a bed over which there was two bags containing rags.

Q Containing what? A Rags.

MR. WASSERVOGEL: The bag is now offered in evidence. The comb is already in evidence.

MR. SINGERMAN: Objected to as incompetent, irrelevant and immaterial, not binding on the defendant, and not within the issues.

THE COURT: It will be received.

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MR. SINGERMAN: I take an exception.

(Same received in evidence and marked people's exhibit No. 14 of this date)

Q Did you ever see this shoe last, People's Exhibit No. 2 (handing same to witness)? A Yes, sir.

Q Did you ever do anything with respect to that shoe last itself? A Yes, sir.

Q What did you do? A I fitted it to a pair of black button shoes that was just shown me that was found in the rooms of the defendant.

Q Did it fit those shoes? A It did.

Q Anything else that you did with the shoe last I show you? A No, sir.

Q Did you ever see this shoe last, People's Exhibit No. 12 for Identification (handing same to witness)? A I did, yes, sir.

Q When, for the first time? A It was in the possession of detective Haggerty.

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

MR. WASSERVOGEL: Cross examine.

THE FIFTH JUROR: Did you say those shoes were discovered on the 26th of August?

BY MR. WASSERVOGEL:

Q When was it those shoes werefound in that apartment? A (After consulting book) Monday, August 25th.

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Q And when was the defendant apprehended?

A Saturday, the 16th.

CROSS EXAMINATION BY MR. SINGERMAN:

Q Where did you say you found that shoe last, officer?

MR. WASSERVOGEL: He did not find that. Another officer had that. He saw it in the possession of another officer.

Q This first one, People's Exhibit No. 2, where did you first see that? A I saw it in officer Hyman's hands, where the body of Salvatora Giordano was found, about 209th Street, in the woods called Inwood.

Q And this second exhibit, No. 12, for Identification? A I saw it in Detective Haggerty's possession; I believe it was the day of the arrest of the defendant.

Q The day of the arrest? A That is my best recollection, sir.

Q About the 15th he was arrested? A 16th.

Q Did detective Haggerty tell you where he had found that exhibit No. 12? A In the rooms 137 Mott Street, rear house, second floor.

Q Did he tell you when he had found it there? A That day.

Q The day that he arrested him? A No, on Sunday following the arrest, I believe it was.

Q Sunday following the arrest? A Yes, sir.

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Q And the arrest was the 16th. That was only Saturday?

A Saturday was the 16th, yes.

Q He found it on the Saturday following? A It was either Saturday or Sunday; I wouldn't be sure on that; I was not there when he found it.

Q Did he say anything about any other exhibits, the satchel or comb, being on the premises at the time he found this exhibit? A No, sir.

Q Didn't mention that to you? A No, sir.

Q And it was not until he had found Exhibit 12, the shoe last, a priod of nine days or thereabouts, that you went upon the premises and discovered these other exhibits; is that so? A Yes, sir.

Q Did you have any conversation with him at all as to whether he had seen anything else on the premises that might be helpful to the prosecution in this case at the time that he went there and got this Exhibit 12? A I don't recall that I did.

Q And how long do you say you have been in the detective bureau? A About seven years.

Q And it did not occur to you to ask him, who had preceded you there, whether or not any other incriminating property had been found in connection with this case? A No sir.

MR. SINGERMAN: That is all.

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JOHN F. HAGGERTY, polce officer, attached to the Forty-third Precinct , Detective Dividion, called as a witness on behalf of the people, being first duly sworn, testified as follows:-

DIRECT EXAMINATION BY MR. WASSERVOGEL:

Q What is your name? A John F. Haggerty.

Q How long have you been a police officer? A Fourteen years this December.

Q And how long have you been connected with the detective Bureau? A Almost five years.

Q Did you have anything to do with the investigation of the facts in this case? A I did.

Q Did you ever go to the premises 133 Mott Street? A 137?

Q 133? A Yes, I went to 133.

Q The apartment of this defendant? A No, that is 137.

Q 137, is it? A 133 is the Scolla Brothers apartment.

Q Did you go to the apartment of this defendant? A I did.

Q Did you find any articles there? A I did.

Q Which are now in Court, or brought to Court? A That shoe last on this side looks like one of the articles I took from the premises (Indicating article on District Attorney's table).

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Q Which one? A The one on the left, the blacker of the two.

Q Come down and pick it out? A I scratched the initials "J. H." on thebottom (referring to People's Exhibit No. 12 for Identification).

Q And where did you find the shoe last? A It was on the second shelf of a closet in the front room of a two room apartment on the second floor north of the rear house of 137 Mott Street.

MR. WASSERVOGEL: This shoe last, your Honor, is now offered in evidence.

MR. SINGERMAN: No objection.

(Received in evidence and marked People's Exhibit No. 12, of this date).

Q Was there anything else that you found there which you took away with you? A I did.

Q What wasit? A There was a couple of boxes of ordinary shoe tacks.

Q These articles which I have on the table here, officer? A All of those articles, and I scratched my initials on them, for the purposes of future identification.

Q Look over them and see whether they are the ones? A Yes, they are.

MR. WASSERVOGEL: I ask these all be marked one Exhibit.

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(Articles last referred to are ~~marked~~ received in evidence and marked People's Exhibit No. 15, of this date)

MR. WASSERVOGEL: Cross examine.

CROSS EXAMINATION BY MR. SINGERMAN:

Q Now, when was this, officer, that you went to the premises and found these exhibits just offered in evidence, what date? A ~~On August 15th,~~ between the hours of four and five P. M.

Q Anybody with you? A Detective Caputo.

Q Ishe here in Court? A No.

Q Why is he not in Court, do you know? A I couldn't tell you that.

Q How many rooms were occupied by this defendant upon the premises? A Two.

Q Two rooms? A Yes, sir.

Q One was used as a sort of kitchen, I presume, and the other a bed room; is that it? A Yes, sir.

Q Did you examine both the kitchen and the bed room carefully at that time? A Well, I wouldn't say very carefully; we gave it a hurried examination, detective Caputo and myself.

Q By ~~x~~ hurried, do you mean you examined, for instance, every available space about with your eye, you glanced around to see if there was any property of any kind that could be

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useful in this case? A We did, hurriedly.

Q Did you look about the bed? A We did.

Q Did you look under the bed? A No, [illegible].

Q How large a bed was there in the bed room?

A It looked like a full sized bed.

Q And how large a room is this bed room, approximately, just approximately? A I jusge about ten by twelve.

Q So that, a full sized bed will occupy considerable space in such a small room? A It did.

Q Naturally, you could almost walk about this space unoccupied beyond the bed in a very short time? You could discover almost anything that was lying around the floor in front of or alongside of the bed? A There was not much space to walk around.

Q It was fairly light in the room? A No, it was rather dark. We used matches.

Q Did you use matches? A Yes, sir.

Q Turned up the gas? Light the gas? A I believe there was a gas; I am not positive of that bed room.

Q Who sent you there for the purposes of making this investigation? A Acting Captain Hurlihee.

Q And his instructions were what in connection with your investigation? A To see if we could find anything there to used as evidence in this case.

Q Naturally, you considered this an important case,

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it being a question of a man having, or not having, committed the crime of murder, and you were going to make such an investigation that would give you any evidence that would enable the prosecuting attorney to convict if he were guilty; is that not true? A Yes, sir.

Q So, under the circumstances, you occupied about how long a time in your investigation? A About an hour.

Q Examining everything that you could in these two little room in that space of an hour? A Yes, sir.

Q Did you find any other furniture in the bed room besides the bed? A That I can't recall.

Q Was there any chiffonier there? A I don't believe there was; I don't remember that.

Q Was there a chair in the bed room? A I believe there was a chair to the side of the bed.

Q But you don't think there was a chiffonier?

A That I could not say positively.

Q Any running water in this bed room? A No, sir.

Q Anything to contain a bowl and pitcher in the room?

A I didn't see anything.

Q No article of furniture of that description?

A No, sir.

Q So, to the best of your recollection, there was a bed and a chair? A Yes, sir.

Q Any clothes closet? A No, they had the clothes hanging on the wall and in back of the door.

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Q So that the entire furniture in the bed room consisted of the bed stead the chair and the clothes of the occupants hanging on a wall; that is about all you saw in the bed room? A And there was a shelf on the north side of the bed room, and a hat box.

Q That is where you found these exhibits? A No, they were found in the front room on the second shelf of the closet, the room used as a kitchen and dining room.

Q Was there anything on the shelf in the bed room? A Detective Caputo stood up on the bed and searched that shelf.

Q And did he take anything from the shelf? A He took a hat box down an d from that removed a package of letters and papers.

Q Then you had completed the search in the bed room with detective Caputo? A Yes, sir.

Q And from there you went into the kitchen, or living room? A Yes, sir.

Q And what furniture did you find in the kitchen or living room? A It appeared to be an ordinary table, about four chairs and an ordinary cooking stove.

Q Anything else? A Outside of a few cheap fixtures on the wall.

Q How did you divide your time? Did you take one room and he the other, or did you both examine one room at a

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time? A Well, some times we were both in one room, and at other times we were in different rooms; he would be in one room and I would be in the other.

Q Being only in the two rooms? A Yes sir.

Q So that, with this furniture that you have described, and with the clothes on the wall in this bed room, and nothing but a kitchen stove, practically, in the other room, occupying a period of an hour or two, that you made a thorough investigation and discovered these exhibits which have been offered in evidence; is that true? A Yes, sir.

Q And you found nothing else at that time; on the 16th day of August? A No, sir.

Q At that time this defendant was arrested and incarcerated, was he not? A He was at the 12th Precinct Station house at that hour.

Q And he has not been out of the hands of the officers or out of the City prison since? A He was in Bellevue Hospital meantime.

Q And from there he was taken to the Tombs? A Yes, as I understand.

9a 40 Q He has been in the custody of the city officials practically all that time? A Yes, sir.

Q And he hasnot been back to his house or had any opportunity to go back? A Not that I know of.

MR. SINGERMAN: That is all.

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RE DIRECT EXAMINATION BY MR. WASSERVOGEL:

Q Did you say he was in Bellevue Hospital? A Yes sir.

Q When was he there? A He was in the prison ward of Bellevue Hospital.

Q Do you know why he want there? A I believe they sent him up there for treatment from the Tombs, as near as I remember.

Q You don't know why? A No, sir, I was only informed of that.

V I T O B A R O N E, called as a witness on behalf of the people, being first duly sworn and examined through the official interprefer, Diadato Villamena, testified as follows:-

DIRECT EXAMINATION BY MR. WASSERVOGEL:

Q What is your name? A Vito Barone.

Q Where do you live A 83 Elizabeth Street.

Q What is your business? A Laborer.

Q You are related to the defendant, are you not? A Yes, sir.

Q What relationship do you bear to him? A Cousin.

Q Do you know his wife? A Yes, sir.

Q Did you seethe defendant on the 10th of August, of this year? A I believe it was on Sunday.

Q What? A I believe it was on Sunday, the day that I saw him. I am a working man. I was out of work, and I

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believe it was on Sunday. 474

Q Was it in August? A In the month of August, I saw him on Sunday.

Q How long after that date, that Sunday, did you hear of the disappearance of his wife? A I heard that next Thursday.

Q Did you have a talk with the defendant on that Sunday? A We saw each other and we greeted each other.

Q Did he ask you to do something for him? A No, sir.

Q Was anything said about a pay check? A He give me the check on Thurday, the day before he was arrested.

Q Didn't he give it to you on the Sunday when he spoke to you? A I was out of work, and because I was out of work I thought it was Sunday.

Q Do you know Mr. Murphy here, the Assistant District-Attorney? A Yes, I saw him before.

Q You were in his room, weren't you, in his office, upstairs? A Yes, sir.

Q And you saw that officer, Officer Digillio there, too, didn't you? A Yes, sir.

Q And Mr. Murphy asked you some questions ~~which~~ Officer Digillio translated to you; isn't that so? A Yes.

Q And you told Mr. Murphy that you were a cousin of this man Giordano; isn't that correct? A Yes.

Q And you told Mr. Murphy that, because he was your cousin, he asked you to cash this pay check for him? A Yes.

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Q And that he asked you to cash this pay check for him on the Sunday before you heard of the death or disappearance of his wife? A He told me that on Thursday, but I believed it was a Sunday because I was out of work, because I didn't work; he told me to get the money when the pay day would come.

Q And you were also a witness before the Grand Jury, weren't you? A Yes, sir.

Q And before the Grand Jury you were asked what kind of check was it, and you answered "A brass check, to collect mone on"; is that correct? A Yes, sir.

Q And you were asked: "Q. His pay check?", and your answer was, "that is right"? A Yes, sir.

Q And also before the Grand Jury you were asked: "Q. And what did he tell you to do with the check?", and you answered him, "He told me that I would do him a favor to collect his pay on that check, and then keep it for him until I would see him again and give it to him". Do you remember that question and answer which you gave before the Grand Jury? A I told upstairs that he told me, "Get this money for me and save it for me and give it to me afterwards".

Q And you were also asked this question by the Grand Jury: "Q. This was the afternoon of Sunday, August 10th?", and your answer was, "yes, at about three o'clock in the afternoon." Now, look at me, please.

MR. SINGERMAN: I object to that, on the ground coun sel is attempting to impeach his own witness.

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MR. WASSERVOGEL: Not at all.

THE COURT: The objection is overruled.

MR. SINGERMAN: I take an exception.

A Yes, sir, I said like that, but, owing to the fact that I was not working, I thought it was Sunday.

Q When did you first make up your mind that it must have been a Thursday, and not a Sunday? A I thought now.

Q Just now for the first time, since you are on the stand? A In this moment, yes.

Q You have visited your cousin over in the Toombs since you testified before the Grand Jury, have you not? A Yes I was once; no more; once only.

Q And the pay check which you received from your cousin, what did you do with it? A I kept the check about five days in my pocket, and then I brought it to some lawyer.

Q The lawyer is in the courtroom now, isn't he? A Yes (pointing to Mr. Singerman).

MR. WASSERVOGEL: Can you give us the day he called to see you?

MR. SINGERMAN: Yes, sir, August 20th, 1913.

Q Do you remember this question having been put to you before the Grand Jury: "Q. Did you ever get any money for this defendant on his pay check before?", and your answer, "this was the first time." You remember that, too, don't you? A Yes, sir.

Q And the time that you called at Mr. Singerman's office,

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the attorney here, you had a talk with him, didn't you, about this case? A Yes, sir.

MR. WASSERVOGEL: That is all.

CROSS-EXAMINATION BY MR. SINGERMAN:

Q Now, Barone, do you mean to say that you called at my office in reference to this check, or did you meet me elsewhere and hand me this check? A I met you in the street, and then we went to the office.

Q But the check was given to counsel for the defendant in the street, was it not? A In the street.

Q Did the counsel for the defendant question you whatsoever regarding this case, and, if so, what did he say? A Well, he asked me for this check, and I said to him, "Be kind of enough to defend this case".

Q You don't know whether that check was ever turned into the company, do you? A I do not know.

MR. SINGERMAN: That is all.

RE-DIRECT EXAMINATION BY MR. WASSERVOGEL:

Q Did you know this lawyer before you met him accidentally on the street? A No, sir.

Q You met him on the street, and you said "Here is a pay check. Defend my friend." Is that it -- my cousin"? A They took me, andwe met him in the street, and I give him this check.

Q Who is "they"? A Giatano Tortaro.

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NICOLO LANCIA, called as a witness on behalf of the People, being first duly sworn and examined through the official interpreter, Diadato Villamena, testified as follows:

DIRECT EXAMINATION BY MR. WASSERVOGEL:

Q What is your name? A Nicolo Lancia.

Q Where do you live? A 137 Mott Street.

Q What is your business? A Tailor.

Q Do you live in the front, or the rear, house, at 137 Mott Street? A Rear house.

Q Do you know this defendant by sight? A I never saw him before.

Q Did you ever see him around Mott Street? A No, sir.

Q Do you know what rooms a man named Giordano occupied in the house opposite yours? A Yes, sir.

Q What rooms were they? A In the rear.

Q What floor, do you remember that? A First floor, one flight up.

Q And do the windows of your rooms face the windows of his rooms? A Yes.

Q Did you, on the night of the 10th of August, or the morning of the 11th of August of this year, have occasion to look into his rooms from your rooms? A Yes.

Fol 4, Q Did you see anything in his rooms, any person? A A light.

Q What do you mean? What kind of a light? A A gas lit.

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Q At what time was this, about? A At two o'clock in the morning; that is, on Monday morning.

Q And did you see any person in there at that time? Did you notice? A No, sir.

MR. WASSERVOGEL: Cross-examine.

CROSS-EXAMINATION BY MR. SINGERMAN:

Q You say you are a tailor? -A Yes, sir.

Q Where is your tailor shop? A I am working in a factory.

Q Were you home the whole day Sunday, August the 10th? A Yes, sir.

Q What time did you go to bed? A I slept that night on the fire escape, because it was too warm.

Q Is this one common fire escape for the whole house, or are there more than one fire escape attached to this house? A That is the only one.

Q In sleeping upon this fire escape, could you from where you were see fully into the rooms of Giordano? A I saw the gas lit.

Q In what position, relatively, would the room containing this lighted gas be in repsect to the fire espace that you occupied? A It was sideways (witness indicates by raising the palm of his right hand and indicating at the right of his palm). The room was right here, and the fire escape was right here (witness indicates at the left of the palm of his

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right hand).

Q Do you recall what kind of weather we had that day, the 10th of August? A It was a nice evening, very warm.

Q Had it been raining? A No, sir.

Q And what time did you retire to sleep on this fire escape? A About ten o'clock.

Q And it was not raining at that time either, was it? A No, sir.

Q When did you first go upon the fire escape for the purposes of sleeping on this night, what time? A About ten, or half past ten.

Q Was the shade of Giordano's apartment pulled down, or was it up, in respect to the window? A He had no shade up

Q And that was the time when you went there, at about ten o'clock, you say that you noticed this light burning? A No, no. About ten o'clock I was asleep. At two o'clock I woke up and I saw the light in the room.

Q Did you see any light when you went to sleep, a gas light, burning? A No, sir.

Q Quite sure of that? A Yes, sir.

Q Were you very sleepy when you went on this fire escape? A Yes, I was sleepy, but I woke up and I saw the gas lit.

Q Were you asleep readily when you went on the fire escape, or did it take some time after you lay down before you fell asleep? A Right away I fell asleep.

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Q So you felt drowsy the moment you got out on the fire escape, and ready for sleep? A Yes, that is so.

Q And you did not particularly notice anything about it? You were not interested except to get the rest that you were looking for; is that true? A Yes, sir.

Q You were not particularly anxious to notice anything about you at that time, except to feel sure you were going to get that rest; isn't that so? A That is all, only when I woke up, at two o'clock, I see the gas lit.

Q Now, when you went upon this fire escape, at 10:00 o'clock, did you notuce the windows of any other apartments in that house or any other house about you? A They were all closed. Everybody was sleeping.

Q Did you particularly have your attention called to any of the apartments, or do you say that as a general proposition, that the entire place seemed quiet, without any particular investigation? A Yes, everything was quiet.

Q You say that just in a general way, without having had your attention directed to any of the apartments or any particular house in that neighborhood? That is what I want? A No, sir, only generally; that is all.

Q How many windows of this apartment occupied by Giordano face upon the fire escape or the rear court where you were? A Two.

Q Did you look at both windows when you went to bed, or just casually, as you would any other apartment? A I looked.

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The window was closed. 474

Q From what room do these two windows look upon the rear court? The kitchen, or the bed room? A The kitchen.

Q How high a building is this? That is, how many stories high is this particular building which you occupied and which Giordano occupied? A Three stories high is Giordano's house, and three stories high is the house that I occupied.

Q You say that you never saw Giordano before? You don't know him personally? A No, sir.

Q By whom are you employed as a tailor? A London, in Broadway.

Q What number in Broadway? A 684.

Q How long have you been working for this man London? A Two years.

Q And what is the nature of the work you do there as tailor? A Making coats like this (Witness points to his overcoat).

Q Are you a cutter? A Tailor.

Q You sew? A Yes, sir.

Q Do you know the brother-in-law of this defendant, who was in this court? A No, sir.

Q Did you ever meet him before? A No, sir.

Q Did you ever know the wife of the defendant, Mrs. Giordano? A No, sir.

Q Did you ever see herupon the premises? A No, sir.

Q Did you have any talk with any of the relatives or

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friends of this deceased about what you were going to testify to here today? A No, sir.

Q Now, what awakened you at two o'clock on the morning of the 11th of August? A My children cried, and I got up and went in to see what was the matter with them.

Q How many rooms are there in your flat? A Two rooms.

Q Is your wife alive? A Yes, sir.

Q How old are your children? A Nine, seven, four, two.

Q How many windows are there to the room of your apartment leading out to the fire escape? A Two.

Q Were the windows closed at the time you went out to sleep, upon the fire escape? A No, sir.

Q Left them both open, or one, which? A Sure.

Q Both of them? A Certainly, sure, the two of them.

Q Now, you say it was the crying of your children. Did they all cry at the same time? A No, the little one.

Q Just the little one cried? A Yes, sir.

Q And that awakened you? A Certainly.

Q What did you do when you awoke? A I lit my pipe, and I started to smoke on the fire escape.

Q You did not go right in the apartment again, did you? A I went inside and ate. When I came out and went to bed again, I lit my pipe.

Q You did not go in and pick up the child in order to appease it, quiet it, did you? A No, sir.

Q Simply lit your pipe and started to smoke? A That is all.

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Q Did you go back to sleep again? A Yes, but the pipe went to my head, the smoke, and I fell asleep again.

Q How long did you remain awake? A About fifteen minutes.

Q About fifteen minutes? A or half an hour.

Q Was it light then, or was it dark, around the neighborhood? A The only light was in the rooms of this man here.

Q But it was not light enough for you to easily walk about in your rooms and find your way, was it? A I got a lamp lit in my room.

Q You kept a lamp lit all night? A Every night.

Q Do you know whether Giordano was in the habit of keeping a light lit all night prior to this time? A No, sir.

Q How often did you sleep upon the fire escape prior to this 10th of August? A About a couple of weeks.

Q And never saw a light burning there before? A No, sir.

Q What was there particularly that attracted your attention to this light at two o'clock in the morning? A Because the gas was never lit before; that evening it was lit.

Q Was it a bright light, or a dim light? A Well, there was enough light there to see.

Q Did you see anybody in the apartment there at that hour? A No, sir.

Q See anybody moving around? A No, sir.

Q And how far could you see into the room when you looked and followed this light? A I couldn't see no one in the room.

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I could see the light, yes, but I couldn't see no one, because the room was sideways.

Q You couldn't see any of the furniture in the room, could you? A I could see the table where they were eating, yes.

Q The table? A Yes, sir.

Q Could you see anything upon the table? Had there been anything disturbed about the table? A No, sir.

Q Was it raining when you woke up at two o'clock? A No.

Q Had it been raining before that? Did you find yourself wet? A No, sir.

MR. SINGERMAN: That is all.

MR. WASSERVOGEL: That is all.

THE COURT: One of the jurors wishes to stop at this time, and I told him I would do so. (To the jury) Do not talk about this case, nor permit anyone to talk to you about it, nor form nor express any opinion thereon, until the case shall finally be submitted to you. Gentlemen, come here Monday morning at eleven-thirty o'clock.

(The Court accordingly took a recess until Monday, October 20th, 1913, at 10:30 A.M.)

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New York, Monday, October 20th, 1913.

TRIAL CONTINUED

DEACON MURPHY, called as a witness on behalf of the People, being first duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. WASSERVOGEL:

MR. WASSERVOGEL: By consent, if your Honor pleases, I offer in evidence a summons served on the defendant on the 16th of April, of the present year.

(Received in evidence and marked People's Exhibit No. 10, of this date)

MR. WASSERVOGEL: I will read the exhibit: City Magistrate's Court of the City of New York, First Division, Eleventh District. Domestic Relations Court for the Borough of Manhattan, in the Bronx. In the name of The People of the State of New York. To Gregario Giordano. Complaint having been made this day by Salvatora Giordano, of 56 Elizabeth Street, that you failed to provide for your wife, you are hereby summoned to appear before me, or the City Magistrate holding this court, at the southwest corner of Wooster and Prince Street, Borough of Manhattan, on the 18th day of April, 1913, at nine o'clock A.M. to the end that an investigation may be made of said complaint, and upon your failure to appear at the time and place herein mentioned you are liable to a fine of not exceeding twenty-five dollars. Dated the 16th of April.

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Signed C.M. Harris, City Magistrate". 474 127

Q Mr. Murphy, you are a Deputy Assistant District-Attorney of the County of New York? A I am.

Q And did you have charge of this Giordano case when it first came to the attention of the District Attorney? A I did.

Q Did you see the defendant before his indictment? A I did/ on the 18th of August, about 2:30 in the afternoon, in the prison ward of Bellevue Hospital. I went there accompanied by a stenographer, Archibald Hammil, attached to the Homicide Bureau of the District-Attorney's office, and by an Italian speaking officer, Officer Digilio, also attached to the office for the investigation of this case. I spoke to the defendant through the interpreter. I told the interpreter to translate exactly what I said to the defendant and what replies, if any, the defendant made to me, my statements or to my questions. I instructed the interpreter to tell the defendant who I was, that I was there to take a statement from him if he cared to make any statement; that he was under no compulsion; that he did not have to say anything unless he wanted to do so, but that if he did answer any of the questions that were put to him those answers could be used against him if he came to trial. I then asked him, through the interpreter, if he understood that, and after receiving his reply I proceeded to question him.

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Q And the interpreter did interpret from English into the Italian language, and then translated again to you in the

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English Language his replies? A He did.

MR. WASSERVOGEL: That is all.

(No cross-examination).

J O S E P H D I G I L I O Police Officer, attached to the Fourteenth Precinct, called as a witness on behalf of the People, being first duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. WASSERVOGEL:

Q What is your name? A Joseph Digilio.

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

Q And have been for how long? A About nineteen years.

Q You are now attached to the Detective Bureau? A Temporarily, yes, sir.

Q Were you attached to the Detective Bureau in the month of August, of this year? A Yes, sir.

Q Did you assist in the investigation of this case of Giordano? A I did.

Q And did you have a talk with Giordano sometime in the month of August? A I did.

Q When, for the first time? A On the 16th of August.

Q And where was that? A At the Twelfth Precinct Stationhouse, where I was formerly attached.

Q And who was present at that time, officer? A There were several detectives, Hyman, Haggerty, Connolly, Hawkins, Acting Captain Herlihy, Detective Carvetta, myself, Murphy --

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Q This Mr. Murphy here? A No, Detective Murphy.

Q You speak the Italian language, of course? A Yes, sir.

Q You are an Italian? A I was born there, yes, sir.

Q Born in Italy? A Yes, sir.

Q And did you speak to the defendant in the Italian language? A Yes, sir.

Q Now, will you tell us, please, what you said and what he said on that occasion, the 16th of August? A On the 16th of August --

Q Just confine yourself to that, first? A Detective Hyman asked him questions, and I interpreted the questions that was put to me before Hyman to the defendant, Giordano.

Q Hyman put the questions which you translated into the Italian language? A ~~Yes,~~ sir.

Q What did Hyman say which you translated in Italian? A He asked him his name. He says "my name is Gregario Giordano"

Q Keep up your voice? A He says, "Where do you live"? He says, "187 Mott Street." He says, The woman, Salvatora Giordano is your wife?" he says "yes, sir". "And when did you see her last?" "I left her in bed on Monday morning, when I left for work." "Now, on Sunday, where did you spend Sunday afternoon, August 10th?" He says, "I spent Sunday afternoon, August 10th, in the house, in my house." "What time did your wife go out?" "My wife went out at four or five o'clock." "What time did you go out?" "I went out at half past seven, about." "Where did your wife

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go?" "She went to a godmother to have a letter written".

Q Godmother? A Godmother. "Where is that?" "On Elizabeth Street, I think it is 56. "Where did you go when you went out?" "I went on the street and remained on the street, and about eight o'clock I met the two Scolla brothers, and I was talking to them, when my wife came along, at about 9:20 we went home. I opened the door; we entered; we had a little lunch, supper, and we went to bed. On Monday morning I got up at five o'clock and I left her, my wife, in bed, and I continued on to my work. I stopped across the street, in the grocery store, 124, and I bought some lunch, and I went over the Canal bridge to my work. I got there about seven o'clock, and I sat down and had some lunch, and at eight o'clock we started to work. When I came home that night, my wife was not home. I waited for some time, and when she did not reach home I went to my brother-in-law's house, Salvatore Bontorno, and I asked him if my wife was there, and he says,'no'. We started to search for her, and we could not find her, thinking that she had worked overtime. The next morning, we went to the police station and made a report of it, about 9:00 or 10:00 o'clock", I think he said, and they were taken there by a man from a bank corner of Mulberry and Hester Streets. Then, when they found out that the case was 56 Elizabeth Street, they were referred to the Elizabeth Street station.

Q Well, did you have another talk with him after that?

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A I had several talks with him after that.

Q Well, the next one? A The next one was that afternoon, at the Morgue; we went up to the Morgue to have the body identified, in the presence of other detectives.

Q Simply confine yourself, Officer to conversations which you had with the defendant.

Q Now, when did you have your next talk with the defendant, after the 16th of August? A On the 18th.

Q Where was that? A At the Prison ward, Bellevue.

Q Who was present at that time? A Mr. Murphy, Assistant District-Attorney, or Deputy Assistant District-Attorney, and Mr. Hammil.

Q Did you talk with the defendant in the Italian language? A Yes, sir.

Q What did you say to him? A Mr. Murphy says, "My name is Deacon Murphy".

Q Mr. Murphy asked you to translate to the defendant the questions which Mr. Murphy would put? A Yes, sir.

Q Is that right? A Yes, sir.

Q Did you do that? A I did.

Q You translated those questions from English into Italian, and did you then interpret the questions again from the Italian to the English language? A Yes, sir.

Q Now, tell us what was said? A Mr. Murphy says, "my name is Deacon Murphy. What is your name?" He says"Gregario

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Giordano".

Q Go right ahead? A "I am a deputy assistant district-attorney, and I have been informed by the police that you are under arrest charged with the murder of your wife." He says, "It is my duty to make an investigation and take a statement from you, if you care to make one." He says "You understand you don't have to say anything unless you want to, and if you say anything here it may be used against you if you are brought to trial on this charge".

Q Go on. What was said? A Then he asked him what was his age. He says, "Forty-one". "How long have you been in the country?" He says, "It will be two years next December, around Christmas time. I came from the town of Vizzini, Province of Catania.

Q Go on? A He had been married to the wife about four months. "On April 20th last", he says,"I was married, this year, and I knew my wife about twenty days or one month rather before I married, and I first learned of her when she came here eight or ten days after she landed", and it was consented to that she was to marry him.

Q Well, whatelse was said about this crime, if anything? A Mr. Murphy asked him several questions.

Q Do you remember them? A Some of them, yes, sir.

Q Tell us what you remember? A Mr. Murphy asked him where did he live when he was married.

Q Keep up your voice? Mr. Singerman wants to hear

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you? A When he was married and where he lived. 474

Q What was said about where he was that day and when he last saw his wife, on th t occasion? A On that day he said his wife went out to get a letter written, over to the god-mother's house, and he went with her; he did not go upstairs; he remained on the street, and around nine o'clock he says he went home with her. About nine, or a quarter past nine, he had supper. Then he went to bed. The next morning he says he got up to go to work, and at five o'clock he left his wife in bed, and he went on to work, to Brooklyn. He thought the boss' name was Harry, or Bradley. When he returned that night he did not find his wife home, and he waited for some time, and then he went over to the brother-in-law, and he asked him if his wife was there, and he said no. Then they started to search, and after that, the next morning, he says, on Tuesday morning, they went to the police and reported the case. Mr. Murphy asked him how was she dressed. He said "She was dressed in a black skirt, tan shoes, no hat". He could not remember the color of the waist. Had five or six rings, three hair combs.

Q Was there anything else that you recall that Mr. Murphy asked him about this crime? A Yes. "Did you ever have any trouble with your wife?" "Never". "Did your wife ever have any trouble with anybody?" He says,"No, except she said I was not the proper husband for her"; and Mr. Murphy said, " what did she mean by that?" "It appeared", he said"that she didn't care anything about me, probably wanted

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to go with some one younger than I was".

Q Anything else that you remember now, Officer? A (No answer).

Q Did you have another talk with him after that? A Yes.

Q When was that? A That was on the 25th.

Q 25th of August? A 25th of August.

Q Where? A In the Bellevue Hospital.

Q Who was present then? A Officer Hawkins and Cassidy.

Q And you spoke to him in the Italian language, did you? A Yes, sir.

Q What did you say and what did he say? A We went up there that afternoon to see him. I think he had his picture taken that afternoon. And when we went into his ward he says "I want to talk to you". I says, "What is it you want to tell me?" He said,"I want to tell the truth about this."x He says"I have been all mixed up. My head was not right for a time, and now, " he says, "for the last two or three days I have come back to my senses." I said, "If you say anything it may be used against you at the trial,if you are brought to trial." Well, he says,"I want to tell the truth. On that Sunday afternoon, August 10th", he says,"I was drunk; I was drinking beer and I was drinking wine. About half past eight that night I went home. When I got home with my wife I fell asleep, and I slept all through the night until about five o'clock in the morning. When I got up I was still dizzy, and I left for work." I said, "Did you see your wife in bed?

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Did you notice your wife in bed?" He said, "I don't remember." "Did your wife go out before you fell asleep?" "I don't remember." I says,"You remember meeting the Scolla brothers on the street, right near where you lived?" He said, "Yes, sir". "Where did you go after that?" He says, "I went home after that, and as soon as I got home I fell asleep; I was so drunk that I don't remember anything."

Q That is all the conversation you had with him? A (No answer).

Q Was there anything else that you remember? A Not that day.

Q Or at any subsequent day? A (No answer).

Q Did you have another talk with him after that, Officer? A I saw him after that again, yes, sir.

Q I mean, did you have a talk with him again? A Yes, I did.

Q When was it? A That was sometime after that, but I just told him that he was charged with such a crime, and he had better tell the truth, and not make so many statements; that he was lying, and he was not telling the truth.

Q What did he say? A He said "I did tell the truth. If you don't believe me, I can't help it".

Q Was that all? A Yes, sir.

Q Did you ever show the defendant these shoes, "People's Exhibit No. 9 (exhibiting same to witness)? A Yes, sir.

Q When? A That was on the 25th of August, at the

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Bellevue Prison ward.

Q And what was said about the shoes? A I asked him in Italian, if those were his shoes.

Q What did he say? A He said, "Yes, sir".

MR. WASSERVOGEL: That is all.

CROSS-EXAMINATION BY MR. SINGERMAN:

Q Now, are you quoting the conversation that was had at these various times exactly in the language used by the defendant and by yourself and by officer Hyman and by Mr. Murphy? A Yes, sir, as near as I can remember.

Q Exactly word for word? A Exactly word for word, as near as I can remember.

Q Not as near as you can remember, but is it exactly literally word for word what took place there, as you have testified here to questions and to answers and given question and answer respectively? A Yes, sir.

Q Absolutely? A Yes, sir, absolutely.

Q And your memory is so good that you remember each and every word of the questions put and the answers, just as you have stated? A Well, it is. I went through this case so much that I can almost remember everything that I done.

Q Even every word used in the questions asked? A Every word that I have just spoken, yes.

Q Now, from what part of Italy do you come, Mr. Digilio? A I come from parts near Naples; that is the town Calvello,

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Province of Bothlecasta.

Q That is not the province from which this defendant comes, is it? A No, not the province of Sicily, no, sir.

Q What is the approximate distance in miles between the two places? A I could not say. I was very small when I came here. I didn't travel anywheres in Italy.

Q You don't know anything about Italian geography? A I don't know much about it; I know something about it.

Q Now, the dialect that is used in the part of the country from which you came, is it the same as the dialect used by the defendant? A No, sir.

Q Is there any difficulty at times for persons from the respective parts of Italy to understand each other? in conversation? A Not with the ease, the defendant.

Q Is there with people in general coming from Sicily, or his part of Italy? A Yes, you might find some parts of Sicily where they talk a dialect that is hard to understand.

Q But the province from which the defendant comes, in that province they use a language that is similar to your own, a dialect, rather, that is similar to your own, so you can readily understand it? A Yes, it is very clear.

Q You can understand each and every word? A I can understand each and every word, yes, sir.

Q Now, your first conversation was on the 18th of August, as I recall your testimony?

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MR. WASSERVOGEL: 16th.

MR. SINGERMAN: 16h day of August.

Q And that was in the presence of Officer Campbell; is hat correct? A Cameron?

Q Campbell? A No.

Q Who were you with at that time? A I said Hyman, Hawkins, Connolly, Hagerty --

Q What was the very first question you put to this defendant on that day? A "What is your name?"

Q Did he hesitate in giving you any information when you asked him concerning this affair? A No, sir.

Q He readily complied with your request in giving you all the information that was asked? A Yes, sir.

Q Now, you have stated that he responded to your statement that he went to work on the morning of August 11th at about four or five o'clock, and that he left his wife in bed? A Yes, sir.

Q And that subsequently, in another conversation had with you about the 25th, he told you that he was not sure about that, didn't know whether she was there or not when he left, that he had been out the night before, on the 10th, and had been drinking? A Yes, sir; he didn't remember, he said, whether he left his wife in bed.

Q Now, did you specificaly ask him where his wife was on that night, or did he volunteer the information?

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A I asked him. He says he was so drunk he fell asleep, and then, when he g¢ up the next morning to go to work, he was still drunk, still dizzy, and he left for work. Then I asked him did he leave his wife in bed, or did he see his wife i bed. He said he did not remember .

Q That was the last conversation on the 25th, or 26th, of August? A No, I had another conversation after that.

Q When was it then? Was it the 25th, 26th or '7th? A After the 25th or the 26th; I don't remember. It was the day he was removed from Belevue.Prison Ward to the City Prison.

Q Then, he did not tell you that on the 25th? A Yes, he told me that on the 25th, but I asked him the last time whether he would not tell me the truth about it.

Q Yes, so that he told you the last time that he was drunk, that he fell asleep, and he did not know whether she was there or not? A Yes.

Q That was after the 25th? A No, that was on the 25th.

Q You say you had another conversation? A That was the day he was removed from the prison ward in Bellevue to the City Prison. That was also in the presence of Detective Hawkins and Cassidy.

Q And you don't know the date of that, do you? A I have it in my book.

Q Your memory, you stated a moment ago, was very good on this particular transaction, that you remembered it word

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for word, the conversation that took place at these various times, and yet you don't remember the date when you had the last conversation? A I just stated I went through so much in this case, I had about thirty-five or forty witnesses, that I can't memorize the whole case.

Q You stated that you literally remembered every word of the conversation? A I stated to the Court the words that I spoke to the Court.

Q Do you mean to modify your answers that you have given by -- do you want to modify now your answer that you have given? A No, I said I didn't remember the day he was removed from the prison ward in Bellevue to the City prison.

Q But everything else you remember very distinctly as to dates and as to the exact language employed in the conversations? A Yes, sir.

Q Word for word? A Yes, sir.

Q Now, give us, word for word, the conversation that you had last, the date that you can't remember? A I asked him that day to tell the truth, that he was lying.

Q Give us your exact language. Don't say it in the third person, but tell us word for word what you said and what he said A I says to him, "You better tell the truth; you know you are lying; you are making different statements, and it is best for you to tell the truth".

Q What did he say, in his own language? A He says

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"I did tell the truth, and I am telling the truth".

Q And did he refer now to his statement made on the 25th or the statement made on the 16th? A All the statements that he had made.

Q On all the statements? A Yes, sir.

Q That he was telling the truth, when, in a general sweep of words, he said I am teling the truth, referring to his previous statements, which, according to your testimony were contradictory; is that so? A I thought he meant at all times that he spoke, when he made the statements.

Q Now, you know from your own testimony here that his statements contradicted each other flatly? For example, one was that he left his wife in bed at 5 o'clock, or thereabouts, on the 11th; another was that he was drunk on Sunday night, the 10th, and went to bed and slept through the night and did not know whether his wife was in the bed or was not there, or had gone out before he had got up. Practically, that is the testimony, is it not? A Yes, sir.

Q And yet you mean to say that, in questioning him last, you took it for granted that he referred to the entire statements made theretofore, that he was telling the truth, when you knew they contradicted each other? A I don't know whether they contradicted each other, but he told different things.

Q Don't they contradict each other? A They do, yes, sir.

Q Didn't it occur to you to ask him that time, "Now,

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which statement is the truth?", in your last conversation with him? A I told him that he was lying, thatbh e told two or three different things. I said "You bettertell the truth".

Q And when he replied it was al the truth, didn't it occur to you to ask him which one of those statements is the correct statement, which is the truth? That did not occur to you? A It did not, because I did not care whether he said one thing or the other, as long as he wanted to lie, that was his privilege.

Q Didn't you care, in order to inform the District-Attorney, in order to assist the prosecution here, convict a guilty man if he was guilty, wasn't it your duty to care? A I asked him --

Q Wasn't it your duty to care? A Yes, it was, yes.

Q Then, why didn't you take pains in asking him about the last statement made? A I did. That was the reason I told him, the day he was removed from the prison ward to the City Prison, that he better tell the truth. That was my object in making him tell the truth, whether it was so, or not.

Q Now, on the 18th day of August, we will get to that conversation, at which Mr. Murphy was present. Will you state, word for word what you said, and what this defendant replied, word for word, now, literally? A Mr. Murphy, the Deputy Assistant District-Attorney, says, "What is your name?" He says "Gregario Giordano." He says, "My name is Deacon

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Murphy, a Deputy Assistant District-Attorney, and I have been informed by the police that you are under arrest charged with the murder of your wife. It is my duty to investigate the case, and I am here to take a statement, if you care to make one, and if you say anything now it will be used against you if you are brought to trial on the charge".

Q Well, what did he say, literally, now, word for word? A Mr. Murphy says, "Do you understand that?" He says "yes". Then he asked him his age. He says he was 41, lived at 137 Mott Street, that he had been here two years next December, around Christmas, and that he came from the town of Vizzini, Province of Catania, that he had been married four months.

Q How many months? A Four months; that he had known the wife about a month before he married her, and that he first learned that she landed here eight or ten days before he knew about it.

Q Go on. Tell us the rest of it, the exact conversation, now, literally? A He says, when he first married, he lived over a saloon in 56 Elizabeth Street; then he went to 95 Elizabeth Street. Mr. Murphy then asked if he ever had any trouble with his wife. "No, never". "Did the wife ever have any trouble?" "No, only she says that he was not the proper husband for her. Mr. Murphy says, "What did she mean by that?" He says, "It appears that she don't care anything about me; that she wants some one younger than I"

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Q Is that all of that conversation? Is that the literal language that was used? A Yes, sir.

Q And that is what you testified to before? A As near as I can remember, yes, sir.

Q Now, did you observe, on this second conversation, you have omitted entirely the description of the clothes? A Yes.

Q So, it is not exactly? A No, that is right. Mr. Murphy asked the description of the clothing on the night of August 10th, and he said that she had on a blue skirt, tan shoes, no hat, five or six rings, and hair combs, and that she went on that afternoon to have a letter written to her godmother, and he remained inside, and about half past seven he went out and remained on the street. Then they went upstairs in their home, had lunch, or supper, and went to bed, and the next morning he got up at five o'clock; that he went to work and left his wife in bed.

Q Now, in your first statement that you made to the District Attorney here on the stand, did you say anything about their going to Elizabeth Street to live? A In the first statement?

Q Yes. A Which one is that?

Q In answer to the direct question of the District Attorney, when you gave the conversation that took place. You have now told us in this second conversation which I asked you to repeat literally what took place, that he told you about going to this Elizabeth Street address to live? A Which one

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is that?

Q 56. A I said when he got married, that is where he lived.

Q You did not tell that in your first statement, on the direct examination. Your memory seems to be rather poor, doesn't it?

MR. WASSERVOGEL: I cut him short on that, and asked him to confine himself to the crime.

Q And yet you literally remember everything that took place on the 16th and on the 18th and 25th, and you seem to forget considerable here in the second conversation; isn't that true?

MR. WASSERVOGEL: That is not fair; that is not true. I object to the form of that question.

THE COURT: You ought not to assert yourself that it is or is not, true. That is a question for the witness. I will sustain the objection.

Q How long have you been on the police force, officer? A Nineteen years.

Q 19 years. Have you been detailed in similar cases of homicide before? A Yes, sir.

Q Now, you have not stated anything about the combs in this second statement to me, which you originally gave to the District-Attorney here on the direct examination. A I did state the combs.

Q Quite sure of that? A Yes, now.

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Q Did you state how many combs? A Three combs.

Q You did not say that in response to my question for the literal language used. You said "combs"? A I said three hair combs.

Q Three combs? A Yes, sir.

Q Do you know the color of those combs? A The color?

Q Yes. A They had some stones in them.

Q You don't know what kind of combs they were, do you? He didn't mention that, did he? A No, he didn't mention the style of comb. Three hair combs.

Q Now, isn't it possible that, in your translations to the District Attorney, that you may have made some error in respect to conveying the exact thought of this defendant on the various occasions, or on the occasion that you at least gave a statement to Mr. Murphy? A I don't think so.

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

Q Are you positive, officer, that there was not an error, or some error might not have crept in that communication? A I don't think I was in eror.

Q You won't swear there might not have been in the translation of the -- A In the translation, there are so many ways of translating, I suppose, that is, to make some people understand. Some people would not understand at all.

Q Is it possible that this defendant fully understood every question that you put to him, from the dialect that you used coming

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used, coming from the part of Italy that you at one time lived in. A I think he did, yes, because he answered promptly every question.

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Q If he answered promptly, is that significant of the fact that he thoroughly understood, or might he not have mistaken your question? A I don't think he did.

Q But you won't swear that he did not? A I don't know what was in his mind, whether he did, or not.

Q And you won't swear that you correctly conveyed in every respect the language absolutely used by this defendant on that occasion? A Yes, sir, I can absolutely swear to that.

Q Then, you have no mental reservations? You say now absolutely that that conversation which you conveyed to the District-Attorney and to Officer Hyman, that you absolutely and correctly conveyed from one language into the English language? A Yes, sir, that was conveyed from the Italian into the English.

MR. SINGERMAN: That is all.

THE PEOPLE REST

MR. SINGERMAN: Now, if your Honor pleases, I ask your Honor for a direction to the jury of a verdict of acquittal.

This is a case that is founded upon circumstantial evidence, and it seems to me, from all of the testimony thus far submitted, the State has not established a crime

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beyond a reasonable doubt. As I recall the decision of The People vs. Place, 157 N.Y.; people vs. Harris, 136 N.Y., there must be positive proof of the fact from which an inference of guilt is to be draw in a case of circumstantial evidence, and that the inference must be shown to be the only one that can be reasonably drawn from the facts.

I submit to your Honor that the facts here do not leave such an inference of guilt of this defendant. The several witnesses that have been on the stand have contradicted themselves in many material respects, which are necessary for the District-Attorney to make out a case, and I submit on the whole there has been no case established against the defendant.

THE COURT: I deny your motion.

MR. SINGERMAN: I take an exception.

T H E D E F E N D A N T ' S C A S E

Mr. Singerman then opened the case to the jury on behalf of the defendant, ~~as follows:~~

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

The contention of the defendant in this case is that he had nothing whatsoever to do with this crime. Not only that, but he knew nothing whatsoever of it.

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We shall show you gentlemen that, on the 10th of August, this defendant was with his wife. We shall bear out the prosecution by further showing that he accompanied her to the various places that they have already related, remaining upon the premises outside of these various homes visited by the deceased.

About seven-thirty P.M. or in the neighborhood of seven-thirty P.M., this defendant accompanied his wife to the home of Josephine Cucce, 56 Elizabeth Street, I believe -- 58 Elizabeth Street, for the purposes of having a letter written to her brother in Chicago. The letter was written, as Mrs. Cucce testified, the witness for the State.

The defendant remained downstairs, waiting for her. It is true, Mrs. Cucce testified she didn't see him, and didn't know he was there. Nevertheless, it is true, and we concede it.

After the letter was written, this defendant left the premises 58 Elizabeth Street with the deceased. They visited an adjoining house, where the brother-in-law, Bontorno, resided.

He remained outside at this time, and did not go in. That is also conceded.

The deceased was in there for a few moments, and spoke with her sister-in-law coming downstairs, joined

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her husband, and then they started in a direction towards Mott Street; that is, the direction of their home. They met one of the witnesses who has testified here on behalf of the State. That was Gregoria Scolla. He was in conversation with his brother, or some one else, and they stopped for a moment and spoke with him. It may be, perhaps, that this defendant first spoke with them, and then his wife came along a few moments later, and she joined him. That was in front of 125 Mott Street, so Scolla testified, that is quite true; we will concede it.

And then, gentlemen, what happened? Then we shall show you that this defendant, accompanied by his wife, the deceased, went from 125 Mott Street to 137 Mott Street, their home; that they entered their home. It was then after 8:00, or in the neighborhood of 8:15, or 8:30, perhaps, and his wife remembered that she had not mailed this letter, and she said to her husband, this defendant, "I am going out to mail this letter; I shall return shortly."

And from that time, gentlemen, this defendant is absolutely ignorant as to how this deceased came by her death.

He told her instantly, when she left, "I am very sleepy; I am going to bed", expecting her to return almost

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any minute.

He went to bed and he slept, gentlemen, through that night, in the morning of August 11th, he will tell you that he awakened at about 5:00 o'clock, and not seeing her upon the premises, he inferred that she had come in, gone to bed, gotten up, as was her custom to get up, early, and had gone to her work, as these Italian women who work in the rag shops and places of that sort have to arise early and go to their work at a very, very early hour, as early as the men. Sometimes they leave before the men. And that his impression was that she had gotten her breakfast and gone to work before he had gotten up.

He got up, and, as the witnesses have testified for the prosecution, he went to the grocery, purchased something for his frugal breakfast, ate it, and went to work for Bradley & Company, by whom he had been employed.

He worked through that out that day, under the assumption that his wife had gone to work.

He came home in the evening, and, not finding her, then his suspicions were aroused, and then he wondered, gentlemen of the jury, what had become of his wife.

The testimony thus far from the witnesses for the State goes to show this defendant and the deceased lived happily. There had been no fracas between them of any kind. There had been no disputes.

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Josephine Cucce testified that this deceased never complained of herhusband. In fact, when she was asked to write this letter, which she did , the deceased said , "Insert my regards and my husband's regards to my brother", showing the relationship that existed was harmonious in all respects. No motive whatsoever for a crime to be committed by this defendant of this nature.

Then, gentlemen, when he gets home, on the evening of the 11th, not finding his wife upon the premises, the very next thing that he did was to go to his brother-in-law, for the purpose of finding out whether his wife had perhaps gone there in coming home from her work; and the testimony was brought out by cross examination of this brother-in-law of the defendant was to the effect that this defendant did go to his home and inquire, and he, the brother-in-law, was not home, and subsequently, when he got in, he was told, either by his wife or someone else, that the defendant was there.

He goes out to find him, and they together join and hunt on the night of the 11th, for this deceasxed, even going to the place of her work, the rag shop, and finding it closed, making thorough inquiries, the next day going to the saloon of Stiglano, the witness who has also testified for the prosecution, which we also concede, and there going to a person whom, under such circumstances among

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the Italians, acts as guide, philosopher and friend, who can speak English, who runs a saloon and is some person in their small community, and makes inquires about this woman about this woman, and he sends them to the police precinct.

Now, there, gentlemen, with the subsequent developments of the investigation here and there, and many friends, many relatives, at the Morgue, is all we can show, and when we submit all these facts to you gentlemen, when we prove to you by acts and words and deeds and what occurred, our innocence, we shall ask at your hands an acquittal.

G R E G A R I O G I O R D A N O, the defendant, herein, called, as a witness in his own behalf, being first duly sworn, and examined through the Official Italian Interpreter (Diadato Villamena), testified as follows:

DIRECT EXAMINATION BY MR. SINGERMAN:

Q What is your name? A Gregario Giordano.

Q Where do you live? A 137 Mott Street.

Q What is your business? A Laborer.

Q And by whom were you employed up to August 10th, of this year, A With Bradley.

Q You mean, the Bradley Contracting Company? A Yes, in the subway.

Q How long were you working for the Bradley Contracting

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Company? A I went to work for Bradley about the month of May.

Q How long have you been in this country? A Not two years yet.

Q Where did you work before the month of May? A The first work I worked near the postofficem and then I went over to Brooklyn.

Q Have you been working steadily since you have been in this country? A Yes, every day, with the exception of some days when I could not find no work.

Q From what part of Italy do you come? A Vizzini, Province of Catania.

Q Were you born there? A Yes, sir.

Q Have you relatives living there at the present time? A Yes, I have got two relatives.

Q Is your mother alive? A Yes, she is living.

Q Now, I want you to state to the Court and jury where you were on August 10th, of this year, and where you were on the night of that day, and the 11th of August, and what happened, if anything? A On the 10th of August, it was a holiday, and I remained some time, sometimes go out and talk with my friends. After dinner, in the afternoon, my wife said that she was going to write something to her brother in Chicago. She wants to have that paper made , and when she was there, to have the paper made I went out for a walk. I went and visited some friends of mine, until it got

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bad weather. After this bad weather, of course, I went home. It was not exactly raining, but it was cloudy. After that the weather got a little better, and I went downstairs, and I met two countrymen of mine named Scolla, two brothers, one Giueppe and one Gregorio Scolla, two brothers, and I started to talk with them. When I was talking with the Scolla brothers in the street, my wife came along. It was raining then a little bit. So I says to my wife, after I got through talking with the Scolla's, we were talking about the society, I told them I wanted to belong to the society, too, I said to my wife, "Let us go home", and we went . When we got home, we ate some bread, and then I says, "I want to go to bed." My wife then says to me, "I forgot to mail the letter. I want to go out to mail this letter." I went to bed and I fell asleep, just as you would imagine a man who works hard, he falls asleep very hard, he falls asleep very easy. In the morning I woke up. Through the window right in front of the bed I saw light. I says, "My God, it is late." I jumped out of bed. I turn around and I look and I didn't see my wife. I thought that she got up and went to her brother's, and I went to work.

Q Had your wife been working during that time that you lived with her? A Yes, sure, she was working.

Q Did you know where she was employed? A In a rag shop.

Q Did she go to work every morning? A Every morning, with the exception of Sunday.

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with the exception of Sunday.

Q What time was she in the habit of getting up for the purpose of going to work? A Sometimes she would get up at five o'clock, sometimes at six o'clock. She had to attend to her house duties, also, to clean up the house in the morning, before going to work, or in the evening, when she would come home, and that is the reason why some mornings she would get up at five, and some mornings she would get up at six.

Q Now, go back a minute to the tenth day of August, when you met Scolla, Gregorio Scolla; and his brother. Had you known that your wife was over to Josephine Cucce's place for the purpose of having this letter written, before you met Scolla? A She told me that "I am going to the godmother to have a letter written".

Q Did you go there first, to wait for her in front of the premises? A No, sir.

Q Was that the first time you met her on Sunday the 10th of August, was when she met you in front of 125 Mott Street, where the Scolla's were standing; is that correct? A Yes, sir.

Q Do you know whether ~~x~~ your wife had been in to see her sister-in-law, Mrs. Bontorno, before you met her at 125 Mott Street? A No, sir, I didn't know it. She went only to have the letter written. Now, I do not know if she went to the brother's. Very likely that when she was near there she went to the brother.

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Q It hasbeen testified here by the housekeeper of No. 56 Elizabeth Street, Madam Francesca Liambiase, that your wife left those premises and remarked to her that you were calling her in the neighborhood of about eight o'clock in the evening of the tenth of August. Is that true, that you were calling her, and had been there at that time? A No, I was not there.

Q Did you say to anyone on that day that you were going to take your wife for a walk on the night of August tenth? A No, sir, no, sir; I was not in my brother-in-law's that day.

Q Did your wife ever leave the house in the morning before going to work and visit her brother, Bontorno, to your knowledge, on any other occasion besides what you have testified to? A Yes.

Q Now, I want you to tell the Court and jury how you came to know the deceased, and what led up to the marriage between you and the deceased? A I was in South America, at Buenos Ayres, and I went back from there to Italy. When I got in Italy some one proposed to me this girl. The brother that lives now in Chicago was at that time in Italy; he came back from Chicago, and we spoke with the friends and with the brother, but, owing to the fact that the father of this girl was sick, we didn't speak no more about marriage. I never met the girl; I never saw the girl. Then I come to America, and when this girl come over here to America a messenger was between us and proposed this marriage. I got

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acquainted with her family, and I went up to the house of this girl only once. We talked about many matters, and they says that the girl has no money. I says, "I have got money and I will provide it for her." Then we went to the church, and from the church we went to City Hall. Then, after we went to City Hall we went home. I remained a little while in her home, and she remained in her own house, and I went to my own house. After that I went up to the house of the bride about a couple more times. In the meantime, I was working up at Sixty-sixth Stteet, on the dock. In the evening when I got t through with my work I got out a pocketbook that I had in my inside pocket (witness indicates by placing his left hand inside of his vest); I pulled out this pocketbook to get five cents to pay for my fare. In replcing the pocketbook, instead of putting the pocketbook inside of my vest I put it outside, and I lost the pocketbook. When I got home I was looking for the pocketbook and I knew that I had lost it, and I got furious. I said, what should I do now? I promised those people I would buy everything for the girl. Now I haven't got no money. After I lost this money I was ashamed to call on the girl at the girl's house, and I remained away for quite a long time. Then I suppose they thougnt it was strange I was not coming to their house, and they sent a messenger to me, to find out why I was not calling there. I told him I was ashamed, because I promised to buy everything

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for her. Now, I have got no more money, and I couldn't fulfil my promise. Then one day her brother and her sister-in-law came to my house and brought me a paper. I received that paper and I said "It is not because I don't want her as my wife; it is because I haven't got no money"; and some friends came between us and says to me "We will advance you the money, and when you work you pay us back a little at a time." Then I spoke to the brother, and the brother says to me, "Well, now that you lost your money, we could fix this matter up this way. A little money we are going to borrow, and I will attend to the dress for my sister, and you attend to your own clothes." Then we got married.

Q Now, was it the same day that you went to City Hall to get this license that you lost this pocketbook? A No, sir.

Q How long afterwards was it? A Four or five days after.

Q What was the name of this messenger who proposed the deceased in marriage? A Paolo.

Q Is he in court today? A If I see him I will recognize him.

Q Was there any conversation or any letters or communications of any kind that were had between yourself and Bontorno, your brother-in-law, and this messenger after you had lost the money and before you went to live with your wife? A No, no, it was all right what we talked about.

Q You testified that you first went to the church before you went to the City Hall. Will you explain what you

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mean by that? A At first we went to church; then we went to City Hall, and after the City Hall we went to the church again and got married, so we went twice up to the church and once to the City Hall.

Q How long after you went to the City Hall did you go to the church with the deceased and get married there? A I could not think what days. Maybe ten or fifteen days, but the rule is that a man that gets married in church must wait twenty-two days.

Q Your brother-in-law, Bontorno, testified on the stand that the custom in your religion is to wait three weeks after obtaining the license or going through the civil ceremony before entering into the religious ceremony; is that correct? A Yes, about twenty days, yes.

Q Twenty, but not thirty; is that it? A No.

Q Twenty days are not exactly three weeks? A Pretty near three weeks, because six days a week is eighteen, and then the other days between just makes pretty near three weeks.

Q It has been testified here that you refused, after the civil ceremony, to enter into the religious ceremony with the deceased, and that the deceased was obliged to go to the Domestic Relations Court and get a summons, which I(here show you (handing witness People's Exhibit No. 10). Will you explain to the Court and to the jury about that summons? And about those facts? A I did not want to get married any more,

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for the reason that I lost my money, because here you need money to get married, and I said to myself, if that is the case, then I go to Italy, where I could get married there, and the marriage there is not so dear as it is here.

Q Did you say anything to the deceased and her brother Bontorno, about going to Italy for this privilege? A No, I didn't say nothing to them. I told them I lost the money, and I couldn't get married any more.

Q Now, was it because they obtained this summons from the Domestic Relations Court that you went through the religious ceremony on the 20th of April, or was it because, as you have testified, your friends advanced you some money, and the brother-in-law, Bontorno, furnished the dress for your wife? Which was the reason for your marriage? A Not for this, because my friend give me themoney, and when I got the money I bought everything.

Q Do you remember the exact date when you obtained the money from your friends and who these friends were? A The day I can't remember. The man is Giatano Ferro; that is all.

Q How much did this Mr. Ferro lend you? A Thirty-five dollars.

Q And what did you do with this money? A With this thirty-five dollars I bought a suit of clothes for myself, and between me and my brother-in-law we bought necessary things to have a feast, drinks and other things.

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Q Who bought the furniture? A I bought the furniture, whatever little furniture there was, two chairs, and one I had made three, a table and a desk.

Q Did you buy it out of this thirty-five dollars which you borrowed? A I had a little money besides that I earned while I was working.

Q How much money did you have on the day that you lost your pocketbook? A I had about three hundred dollars.

Q And when you lost that, did you have any more money at that time left? A I had about twenty dollars outside of that.

Q Where did you keep the twenty dollars, apart from the three hundred dollars that was in this pocket book?
A I had the twenty dollars in this pocket here (witness indicates right hand trousers pocket), because I was paid that evening.

Q So that, you mean to tell this jury that with the mone that you had left, this twenty dollars, and some money that you made since that time that you lost your pocketbook, in addition with what you borrowed, you bought your clothes and the little furniture that you had in your home after you got married? A Yes.

Q Now, did you ever have any fight or quarrel with your wife, from the time you went to live with her until the time of her decease? A After we got married, not a single word was between me and her.

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All the people could tell you the same thing.

Q Did your wife work immediately after you married her, up to the time of her death? A After we got married, there wasn't so much work; she was sewing coats home.

Q How long did she work at this sewing of coats? A About a month.

Q And how much did she earn a week at this work? A About three dollars, or three dollars and sixty cents, because she wasn't getting much work, not all the time.

Q When did she first go to work for this rag shop? A A month before she died she went to work in this rag shop.

Q And how much did she earn at this rag shop a week? A First she got four, then four and a half, then four-seventy-five, and finally she got five dollars.

Q Did you ever ask her for any of her earnings? A Well we never had any account -- any quarrel. We always were in harmony, and whatever she made and whatever I made it was always together.

Q Did she keep the money, or did you keep it? A There was no money saved. We would pay the rent and keep just enough for our own support, and with the balance pay the debts to the people we owed money to.

Q How much did you earn a week during the time you lived with your wife? A A dollar and sixty cents a day. You could calculate that yourself.

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Q On the night of August 11th, when you came back from work, did you go directly to your home from Bradley & Co.?
A Sure, I went to my house.

Q And was your wife there? A No, sir.

Q Did you think it strange? Ax Yes, pardon me. That night I went home, and when I got home my wife was not in bed. Seeing that everybody else was back from work I says, it is strange my wife is not in. I went outside and I met a party, and she told me that she met my wife in the morning, and my wife tipped her on the shoulder like this (witness indicates by placing his left hand on the right shoulder of the interpreter). After that? I went to my brother-in-law's house, and with him we started to search.

Q Who was this party who told you, he or she had seen your wife on Monday morning, the 11th? A I do not know her name, but she is a sister-in-law of a niece of my wife.

Q What is the name of the niece of your wife, and where does she live? A Salvatora Bontorno.

That is, the wife of the witness Bontorno who testified here? A No, I don't mean that. No, they are both Bontorno's, two brothers in Italy, and they have the same name.

Q So, it is a niece of another Salvatora Bontorno, other than the one that was in this courtroom? A She is a niece of this man that was in the courtroom. They are the children of two brothers.

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Q Where does this niece live, do you know? A At the time that I was outside of the prison, before I was arrested, she lived at No. 166 Mott Street. I do not know if she lives there yet.

Q Now, on the evening of the 11th of August, did you first go to the home of Bontorno, your brother-in-law or did he come to your home? A I only know that as soon as I arrived home I went to his house. If he was at my house when I was not there, I couldn't tell.

Q Did he tell you that he had been to your house? A Yes, he told me.

Q He testified here that he called at your house and found you there about five o'clock in the evening, or perhaps a little later, and that he asked you, "Is my sister home"? A He couldn't ask me at five o'clock, because I left work at five o'clock, at Brooklyn, and I never get home before six, or a quarter after six.

Q Did he ask you that in your home on Monday evening, the 11th of August, and did you reply, "no, she is working yet"? A No, sir, not in my house. It was in the street.

Q Did you answer him in the street, "She is working yet", or Monday evening, the 11th of August? A No, I didn't say that. I said to him, "Why, everybody else is home, and my wife is not home. How is this?" And me and him we went around and passed everybody.

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Q He testified here that he further asked you, "where does she work?", and that you answered, "in a rag shop", and that you further said, "let us go out in the street where we can find her." Is that true?

MR. WASSERVOGEL: Did he say that?

MR. SINGERMAN: Yes, I have it down here.

MR. WASSERVOGEL: I say, don't ask him is it true. Did he say that?

THE WITNESS: Yes, that is true.

Q Had Bontorno any information during the month your sister was working in the rag shop as to where she was employed? A Sure, he knows it, because every two or three days the sister was going over to see thebrother, and, naturally, she would tell him everything; she would tell him where she works, and so forth.

Q And still you recall that that was the question asked, "where does she work?", and you answered, "in a rag shop"? A Yes, I told him she worked in a rag shop.

Q Now, I show you these exhibits (exhibiting same to witness). One is People's Exhibit No. 2. The other is People's Exhibit No. 12; and I ask you if you have ever seen these exhibits, known as shoe-lasts, before? A One like this I have home (indicating People's Exhibit No. 12). I do not know the numbers, but it is one like this, nice and smooth, like this.

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Q Did you ever see Exhibit No. 2 before? A No, sir. I had only one last, that one there (indicating People's Exhibit No. 12). I didn't have two, because I am no shoemaker.

Q Now, what is there about Exhibit No. 12 that will indicate to your mind that that was the shoe-last that you owned, as against Exhibit No. 2, this one? A Because I know the one that I had was nice and smooth; there was no rust on it.

Q Was there anything else about the shape of it that can cause you to distinguish between the two, aside from its being nice and smooth? A No, sir, only that this other one is smooth on top. I don't read any number, and I am before this society as a blind man.

Q When you say "top", will you point with your finger, showing where you mean it is smooth on top? A This one up here (witness indicates top of the shoe-last).

Q Now, where did you ever get this shoe-last? A Which one? That one?

Q The one you claim is yours, with this flat top? A I was working at the West Shore, and a man that was working there with me, he was going to leave this country and go to Italy, and he told me about that shoe-last and he told me, "do you want to buy it?" I says to him, "Iam not a shoemaker; I don't see any necessity." He says, "With this you sometimes could put some nails in your shoes yourself. I will sell it to you cheap. I have no use for it." I said, "How much do you want?" He said, "I want twenty cents",

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and I said, "no, that is too much", and I give him twenty cents and he give me the shoe-last.

Q When was that? A About ten or eleven months ago.

Q Did you ever have any occasion to use it during the ten or eleven months you owned it? A Very little, very little. Sometimes, when I need to put a nail on, I would use it, and then I would put it to one side.

Q Did you ever before to-day see the other shoe-last, Exhibit No. 2? A What do I know? I am not going around and looking or it. I am not a shoemaker. I do not understand anything about shoemaking, only the man told me "I am going to Italy and I want to give you that shoelast"; that is all I know.

Q I show you People's Exhibit No. 9, and ask you if you ever saw those shoes before (exhibiting same to witness)? A I believe they are mine. They may be some one's similar to that one, but I believe those are mine.

Q Look at them good, and see if they are yours. Examine them. A I say, they are mine, but it may be some other ones.

Q I ask you to fit People's Exhibit No. 12 into those shoes and see whether it fits into the shoe? A (Witness puts last, People's Exhibit No. 12, into shoe). Sure, it fits.

Q When did you last wear those shoes, and on what occasion? A Sometimes I would take those shoes to wear, and sometimes the shoes I have on now.

Q When was the last time you wore those shoes? What was

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the occasion? A On Saturday.

Q Saturday, August 9th? A Yes.

Q Do you know whether it was raining, on Saturday, August 9th? A I don't remember.

Q This last People's Exhibit, No. 12, did you use that for both of your shoes, or just one shoe, in taking the nails out, or correcting any trouble you had with the snoes? A Both shoes.

Q That will fit in either shoe? A Yes.

Q Now, Officer Digilio, who speaks Italian, testified that he saw you on August 16th and had a conversation with you, at which time Officer Hyman was also present, and that you told him that you had left your wife in bed on Monday morning when you went to work, at four or five o'clock in the morning. Is that so? A No, sir.

Q What did you tell him, if anything, about your wife? A I told him, because of what that woman told me in the street, that she met my wife, I told him that she may have gone to the brother this morning, but I didn't see her in the bed.

Q So that, what you told him was a conversation that had taken place between the niece of this Bontorno and yourself, in which the niece had informed you that she had seen your wife on Monday morning, and that is what you meant to tell this officer? A Yes, believing that she was over to the brother's house, because I didn't see her in the house that morning, as on previous occasions, she went to the brother's house.

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Q Now, do you recall another conversation that this same officer had with you on August 18th, in which, as he has testified, he asked you further about the disappearance of your wife, and you told him, so he claims, that your wife said you were not the proper husband for her, and that she ought to go with someone younger. Did you tell that to this officer. Was there any such conversation? A No, I said this to him: That at one time my wife had a converdation in a grocery store, and she said to some one, "This is not supposed to be my husband", refering to me, and I said to the detective, owing to this fact, that she was displeased, she may have gone away.

Q Do you know what she meant by that remark, that "this is not supposed to be my husband? A I do not know what she meant.

Q Did you ever ask your wife, after you heard that remark, just what she meant by it? A I didn't know anything about this before, I heard this. After my wife disappeared, and when I was looking for her.

Q The officer has testified to another conversation that took place at Bellevue Hospital on the 25th of August, in which he states that you remarked, "I want to tell the truth about it. My head was mixed up on that night, as I was drinking beer and wine, and I went home and slept all the night, and don't remember whether she was in the house or had gone out in the morning before." Is that statement -- was that statement made by you to the officer? A No, it is not true.

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Q What was the conversation on that day? A I didn't say that to him. I stated to him the conversation that I stated before here, that I do not know where she was and I told him just what I heard.

Q Did this officer who spoke Italian have occasion to ask you more than once to repeat your answers because he did not understand what you said? A I didn't understand him very well, and I believe that he did understand me.

Q Did he have to ask you more than once for any answer that you made? A Well, sometimes I said it only once to him, and some other times I had to repeat the answer a couple of times, but I said always the same thing to him.

Q I show you People's Exhibit No. 14, and ask you if you have ever seen that handbag before (handing same to witness)? A My wife had a valise something like that, a bag something like that, but I couldn't say if that is my wife's bag, because there are a good many more made like that.

Q Was your wife's handbag as large as that? A Yes, sir.

Q And when did you last see it? A Yes, I say that this is my wife's bag, but maybe there are some more like that.

Q When and where did you last see the handbag that your wife had that was similar to that? A I saw it in the house.

Q When, the last time? A On Sunday.

Q Now, when she went out to mail this letter, after eight o'clock on Sunday night the 10th of August, did she

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take that handbag with her, or leave it in the house? A I couldn't say, because, after we got through eating, I says, "I am going to bed". Then she was around the house, straightening up things.

Q How soon after you went to bed did your wife leave the house? A I do not know, because I went to sleep right away.

Q The officer who found this handbag has testified that he found it under your bed at 137 Mott Street, where you resided. Do you know how that bag came under your bed on or about the 26th of August, 1913? A I do not know. Maybe that handbag -- maybe she hung that handbag at the railing of the bed, and when I went to bed I suppose in moving the bed it fell down under the bed.

Q You were arrested on the 15th of August, were you not? A On the 16th, I believe.

Q Do you recall seeing this bag between Sunday, the 10th of August, and the 16th, when you were arrested? A I didn't see it.

Q Do you know Francesca Lambiase, the housekeeper at the house 56 Elizabeth Street? A Yes, I know her.

Q How long have you known her? A About a month.

Q Did you ever speak to her? A Yes, I spoke to her.

Q How many times? A Two or three times.

Q Did you hold any lengthy conversation, or just bid her the time of day, upon those occasions? A No, I talked to her. Even she spoke to me once about this black hand

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business that they sent a letter around, this and that.

Q Do you recollect when that conversation took place?

A After my wife's death, after the death of my wife.

Q Did you ever speak to her before the death of your wife?

A Yes, I believe I spoke to her. I believe we were greeting each other, because when I was going up there she was right in front of the door, this door and that door (witness indicates to the right and left of his person); they were just across, and naturally we were talking.

Q She has testified here that, on the 12th day of August, she spoke to you about your wife who was missing, and she states that you told her that two women came to your home on the morning of the 12th, and took your wife away to earn seven or eight dollars a week. That was her language. Is that statement correct? Did you make it?

THE COURT: We will stop there. (To the jury) Don't talk about this case, gentlemen, nor permit anyone to talk to you about it, nor form nor express any opinion thereon, until the case shall finally be submitted to you.

Two o'clock, gentlemen.

(The Court accordingly took a recess until two P.M.).

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AFTER RECESS.

GREGORIO GIORDANO, the Defendant, resumes the stand:

DIRECT EXAMINATION CONTINUED BY MR. SINGERMAN:

Q (Question read by stenographer, as follows:) "Q She has testified here that, on the 12th day of August, she spoke to you about your wife who was missing, and she states that you told her that two women came to your home on the morning of the 12th and took your wife away to earn seven or eight dollars a week. That was her language. Is that statement correct?") Did you make it?") A No, sir.

Q Did you have any conversation with her in which you told this woman that some loafers probably wanted $100 from you to return your wife? A Yes, I said that to her.

Q What day was that that you had this conversation? A When we were talking about the disappearance of my wife.

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

Q Was it the day after your wife had disappeared, on Monday, the 11th? A If it was the 11th, or if it was the 12th, or 15th, I don't remember, but it was after the disappearance of my wife.

Q What gave rise to the conversation about $100-- these loafers that wanted $100? A When I came from Italy here to this country, I had with me about $500 in money that I earned

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in South America. I took--

MR. WASSERVOGEL: If your Honor please, just a minute. That is not responsive to the question, and is not pertinent to this inquiry. That question is, what conversation did this defendant have with a witness who testified for the People.

THE COURT: Yes.

MR. SINGERMAN: I think he wants to show why.

THE COURT: There is no doubt about the fact that this testimony is not properly responsive to the question. All we want is responsive answers. No objection to your question. Mr. Interpreter, we want only responsive answers. Let the witness understand the meaning of the question, and get a responsive answer before you interpret.

(Question read by stenographer, as follows: "What gave rise to the conversation about $100-- these loafers that wanted $100?")

MR. WASSERVOGEL: It is not a question of what gave rise.

THE COURT: Yes, that calls for an opinion.

Q What was the cause of the conversation between you two?

MR. WASSERVOGEL: That is objected to.

THE COURT: No, that calls for an opinion.

Q State the conversation that took place between you and that housekeeper about $100, in reference to your wife.

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A I was saying to myself, maybe because they couldn't do nothing to me, that I didn't want to send the money to them, they might want to hurt my wife.

Q Who are these people that you refer to now?

MR. WASSERVOGEL: Is that what he was talking about with this woman? Otherwise, the question is objectionable.

MR. SINGERMAN: Yes, that is just the point.

MR. WASSERVOGEL: Well, ask him that, please.

Q Do you refer now to the people that you called attention to when speaking of the $100 with this housekeeper? A Yes.

Q Now, who are these people? A I received a letter from the Black Hand asking me to bring about $100 or $150 to a certain place, telling me they knew me, and I shouldn't communicate that to anybody.

MR. WASSERVOGEL: Now, you see, your Honor, how objectionable this testimony is. We have no means of meeting such statements. It is improper.

THE COURT: Yes, hold yourself down to competent evidence, counsel. Mr. Interpreter, you must not bring in everything the witness says, only answers which are responsive to the question.

MR. SINGERMAN: I am only trying to get this in answer to the direct.

THE COURT: Yes, I recognize the difficulty.

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Q What had this to do with your wife?

MR. WASSERVOGEL: That is objected to.

THE COURT: I sustain the objection to that question.

Q Did these men to whom you refer demand this money which you have stated by any threat to kill your wife at that time?

MR. WASSERVOGEL: I object to that. There is no way in which the prosecution has of meeting any such testimony, your Honor.

THE COURT: I am bound to sustain the objection to that question. You may ask what was said, by consent, but not the opinion of the witness.

Q Will you state to the Court and Jury fully everything that was said between yourself and this woman in reference to this $100 and these so-called men who wanted the $100, stating what you said to the woman, and what she said to you in reference to it.

THE INTERPRETER: The witness don't answer, your Honor.

MR. SINGERMAN: He won't answer it?

THE INTERPRETER: Don't answer. I put the question, and he goes back to something else.

THE COURT: Put another question. It may be that your question, which is intelligible to us, is not intelligible to the witness, and you will have to keep putting the question.

MR. SINGERMAN: I ask the stenographer to read it.

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(The stenographer reads as follows: "Q Will you state to the Court and Jury everything that was said between yourself and this woman in reference to this $100 and these so-called men who wanted the $100, stating what you said to the woman, and what she said to you in reference to it?")

THE WITNESS: I told the Janitress that I received a letter, and in this letter it says that here in New York City they are strong enough to make disappear anyone, and someone who don't obey their orders may disappear in no time. I was afraid that my wife met that fate.

Q Did this letter which you described to this woman contain anything about $100? A I told Mrs. LaMiase that in the letter it requested me to send some money. I didn't have any money, and I didn't send any money to them.

Q Did you tell her at that time that the amount of money was a hundred dollars? A I told her about a hundred dollars, or $150, they wanted from me.

Q Is that what they demanded in the letter? A Yes, sir.

Q Do you know a man by the name of Nicola Lancia, who lived in the same house with you at 137 Mott Street?

A No, sir, I do not know him.

Q Did you know a man that lived on the same floor with you who was a tailer? A I do not know the man, but I know the woman.

Q Did you know that her husband was a tailor? A No, sir.

Q Is he an Italian? A She is Italian.

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Q Did they reside on the same floor with you? A Yes.

Q In the same house, or the rear house? A She lived on this side (witness indicates to his right), and I lived on this side (witness indicates to his left).

Q But you don't know whether the man you are describing was the tailor, Nicola Lancia, or not? A I do not know; I don't even know the name of the woman.

Q Now, on the night that you went to sleep, after your wife had gone-- before your wife had gone out of the house, was the gas burning? A Yes, the gas was lit, because she was in the house, and after that she went out to mail the letter.

Q Did she put the gas out before she went out to mail the letter? A I do not know if she closed the gas, or not, because I went to sleep.

Q In which room was the gas lit? The big room, or the kitchen? A In the kitchen.

Q Can you tell just how soon after you got into bed you fell asleep, about how many minutes, or hours? A Four or five minutes.

Q Did you wake up at all from the time that you fell asleep until the morning when you got up, at five o'clock, or thereabouts? A No, sir.

Q When you awakened, was the gas still burning? A No, the gas was turned off.

Q Did you look about the bed, to see whether the other pillow had been disturbed? A I do not know if the pillow was

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disturbed, because in the morning when you get up in a hurry you may disturb the bed yourself.

Q How old was your wife? A From what she says, she says she was 39 years old; I don't know.

Q 39? A 39.

Q How old are you? A I was born in 1872; I believe I am 41 years old.

Q Were you ever convicted of any crime, either in Italy or in this Country? A Never.

Q When you were in Italy, what was your business? A Laborer.

MR. SINGERMAN: Your witness.

CROSS EXAMINATION BY MR. WASSERVOGEL:

Q You went to the church twice, did you not? A Yes, twice, sure.

Q Once before you were to the City Hall and once about three weeks after you went to the City Hall; is that correct? "Yes", or "No". A Yes, sir.

Q And I suppose that your first visit to the church was for the purpose of publishing the bans or announcing your marriage to be; is that right? A Sure.

Q And after the ceremony at the City Hall, you say that you lost your pocket book containing some money; is that correct? A Yes.

Q Do you remember when it was that you lost your pocket book? A I couldn't think of it; I don't know if it was a

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week or eight days after.

Q Do you remember whether it was before or after you were served with the court summons, People's Exhibit No. 10? A I lost the pocket book before I received that summons.

Q You carried that pocket book with you all the time before you lost it, did you not? A Always.

Q Carried it in which pocket, do you remember? A In this pocket here (witness indicates right side of his inside vest).

Q And you say you had in it $175? Was that what you say? A It was about $300.

Q Describe that pocket book for us, will you please? Something like this, to open up (showing witness folding pocket book)? A Not like that.

Q Something like this, a little larger (showing witness another pocket book)? A Yes, something like that, with a pocket on each side.

Q Where did you get it? A I had that from South America, from Argentina.

Q Buenos Ayres, wasn't it? A Yes.

Q Here is the pocket book, isn't it, with the mark Buenon Ayres on it (exhibiting pocket book to witness)? Look at it. Take this in your hand and look at it. A I got this down in the Argentine Republic for a present at a place where we were spending our money, but the one I had was a red one.

Q And this was found in your home by the police, wasn't

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it? A Yes.

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MR. WASSERVOGEL: Mark that for identification.

THE WITNESS: Yes, it was in the house.

(Pocket book last referred to is marked People's Exhibit No. 16, for identification, of this date.)

MR. WASSERVOGEL: May this be marked in evidence, as long as the witness identifies it?

MR. SINGERMAN: Objected to as not relevant.

THE COURT: How is it relevant to this inquiry?

MR. WASSERVOGEL: Well, it is marked for identification. That will answer the purpose for the present.

Q You carried this around with you, too, didn't you? A No, I left that always home.

Q Always? A Always home.

Q You carried it with you on the 15th of August, didn't you? A I never had it with me. Maybe I had it in the other coat, in the house.

Q You sometimes wore the other coat which you had in the house, did you not? A Yes, sometimes I wore that coat.

Q And you wore this coat on the 15th of August while you were riding in a Second Avenue trolley car, didn't you? A I never carried that pocket book with me.

Q And while you were riding in a trolley car on that day you obtained a transfer dated August 15th, 1913; is that correct? A No, sir.

Q And you put that in there, didn't you, the transfer? A. I didn't take any.

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A I didn't take any.

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MR. WASSERVOGEL: Mark that for identification.

(Transfer marked People's Exhibit No. 17, for identification, of this date.)

Q But, at any rate, you did refuse to marry this woman? A Refused because I lost the money.

Q You did refuse, and then you were served with this court summons, People's Exhibit No. 10? A Yes.

Q And then two days, or four days after the summons was served upon you, you married the woman; is that correct? A After I was served with that summons there, some friend come between and said to me, "You lost the money, we are willing to lend you some money, and you can get married", and we got married.

Q Now, where did your wife work? A In the rag shop.

Q Where was the rag shop? A I do not know; I do not know. You go through a street, and they say it is Canal Street, but I couldn't read. That is what they say, and that is what I say.

Q You lived at 137 Mott Street, did you not? A Yes.

Q And you have been at the rag shop where your wife worked that night? A In the evening, with my brother-in-law.

Q And it took you about five or ten minutes to go from your home to the rag shop? A I am not a horse. It will take at least fifteen minutes.

Q Fifteen minutes. All right. And your wife would go to work at seven o'clock in the morning, wouldn't she? A Yes, at

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seven o'clock she started to work. 474

Q Now, come down to the 10th of August. You didn't do any work that day at all, did you? A No, sir.

Q That was Sunday? A Yes, Sunday.

Q What time did you get up that morning? A I do not know; I may have got up at six o'clock; maybe at eight o'clock; I didn't have no watch.

Q And your wife slept with you the night before, Saturday night, didn't she? A Sure.

Q And she got up at about the same time that you got up that Sunday morning? A I don't remember if she got up before, or if she got up after.

Q Well, did you have breakfast together that Sunday morning? A Yes.

Q Did you then remain home all morning? A In the house and in the street.

Q Did your wife stay home all morning? A Yes, she was in the house all morning, and then she went out, after dinner, to have that letter written.

Q Well, you had your lunch at home with her, did you not? A Sure.

Q And at about what time did you have lunch that day, do you remember? A At mid-day, twelve o'clock.

Q And after you had your lunch did you stay home all afternoon? A We remained in the house for quite a little while, and then she went to have the letter written, and I went in the

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street.

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Q So, she went out to have the letter written in the afternoon; is that correct? A Yes, after dinner.

Q At about two o'clock, would you say? A If it was two, or three, or four, I didn't pay no attention.

Q When did you next see your wife after the time that she went out to have a letter written? A About a quarter after eight.

Q Did you have an appointment to meet her at a quarter after eight anywhere? A No, sir.

Q Where did you meet her? A Mott Street.

Q Where? A I think about 124, or 126; I do not know the number; but it was before you get at my house.

Q Well, did you meet her there by accident, at a quarter past eight that night? A Yes, I was talking with Scolla Brothers there, and when I was talking with those fellows she came.

Q Was it after that that she went to her brother's house, Salvatore Bontorno? A No, sir, no. After we talked with Scolla we went up to the house.

Q Did the Scolla Brothers accompany you to your home? A No, we greeted each other, and they went to their house and I went to my house.

Q So that, you arrived home at between a quarter after eight and half past eight that night; is that correct? A Something like that.

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Q And your wife went upstairs with you to your apartment? A Yes.

Q Was the gas lit when you entered your rooms? A No, we lit the gas.

Q Did you light it, or did your wife light it? A I do not remember if she lit the gas, or I lit the gas.

Q And then you had something to eat, both of you together? A Yes.

Q And then you say, immediately after you had something to eat, that she went out; is that correct? A After we got through eating, I says to her, "I am going to sleep, because I am tired. Are you going to sleep?" She says to me, "I will straighten up the house, and then I will go and mail this letter, and then I will go to bed".

Q She said she was going out to mail the letter? A Sure.

Q You never told that to the police at any time, did you? A I don't remember if I told that to the policeman, but it is true that she went and got the letter written by the God-Mother, and then she took it out to mail it, and she went out to mail the letter.

Q You didn't see her go out, did you? A No, I didn't see her, because I was sleeping.

Q Now, do you remember the time when Mr. Murphy, the Assistant District Attorney, was examining you and Officer Digilio was translating the questions? Do you recall that occasion? A I don't remember.

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Q You know Mr. Murphy here, don't you, you have seen him before? A I do not know him.

Q Well, you know Digilio, don't you, you know him (indicating Officer Digilio)? A I am not sure that I know him. He looks like an Italian I may have known.

Q Don't you remember there was a time when Officer Digilio was asking you questions, and Mr. Murphy was present, and a man was writing down what you were saying? A There was one there that spoke Italian; there was another man writing, but I don't know them; I couldn't recognize them.

Q And that was at Bellevue Hospital? A It was at some hospital, but I do not know if it was the Bellevue Hospital, or what. In fact, if I left this court room, I wouldn't know the next street, what the name was.

Q Do you know that Officer Digilio interpreted this question put by Mr. Murphy: "Q Did you see her mail this letter? A No, she said it was late, and she couldn't get any stamps at that time." Do you remember that question having been put and the answer made by you? A No, sir.

Q Will you say that you did not make such answer to a question so put to you? A No, sir, I was not asked that and I did not make that answer.

Q Do you remember this question having then been put and the answer given by you: "Q So the letter was not mailed? A No, I don't think it was mailed, for it had no stamps." Do you remember that question and answer? A No, it is not

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Q It is not so? A I said only that she went out and mailed the letter.

Q Now, do you remember Mr. Murphy having asked you through Officer Digilio, "When did you last see your wife alive? A It was on Monday." Do you remember that question and answer? A No, I didn't see her alive, but I know that she was going every morning to the brother, and I said, "Maybe she went to her brother".

MR. WASSERVOGEL: (To the Interpreter) Put the question to him again. The question is, was such a question put to him, and did he give such an answer-- "When did you last see your wife alive? A It was on Monday."

THE WITNESS: No, sir.

Q And do you remember the question then put to you, "Q At what time? A Five o'clock. I got up, and I was going to work." Do you remember that question and answer? A No, sir.

Q Do you remember this question and answer: "QWhere did you have your supper Sunday night?", and your answer, "In my house". You remember that, don't you? A No, sir, he didn't ask me that. That is not true.

Q And didn't you say, in answer to the question, "At what time?", "At nine or a quarter past nine." Did you say that? A No, sir, it is not true.

Q Did you have any trouble with your wife at any time?

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16 A No, sir.

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Q There was one occasion, however, when she said she did not want to live with you; is that right? A No, she did not say that; she didn't say nothing.

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Q Do you remember this question having been put by Mr. Digilio: "Q Do you know of her having had any trouble with anyone?", and your answer, "She used to say to me, 'You are not the proper husband for me.'" Do you remember that question and that answer? A She said to me, "yes, "You are not supposed to be my husband, but God sent you to me; let us love each other as man and wife", because I didn't know her before.

Q Didn't you also say to the officer, "It appeared to me that she didn't care for me, and that she wanted to leave me." Do you remember that? A No, no, she was not that kind of a woman.

Q Do you remember this question having then been put to you by Officer Digilio-- question put by Mr. Murphy and translated by Officer Digilio: "Q Aren't you lying when you say you left her at five o'clock on Monday morning?", and your answer, "Don't you think there is witnesses to that, that I seen her that morning?" How about that? A No, I didn't say that, that I saw her; I didn't say that.

Q Don't you remember that Mr. Murphy then said, or Officer Digilio asked the question put by Mr. Murphy, "Well, I will tell you that the body of this woman which you identified as your wife was found on Sunday night", and your answer, "Maybe it is

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another one, then; there are a lot of faces that look alike." Do you remember that question and answer? A No, sir.

Q You say that question was not put, and the answer was not given; is that right? A No, no. No, sir; no, sir.

Q Do you remember how your wife was dressed on the night of the 10th of August after she went out, as you say, or when she went out? A I remember that she had a dress like this (witness points to the Interpreter's coat, which is blue), shoes like mine (witness points at his shoes, which are tan colored shoes), and a coat,

Q And she had her coat on when she went on when she went out, didn't she? A No coat on.

Q Did she have her hat on when she went out? A No, sir.

Q Did she carry anything when she went out? A A bracelet and five or six rings.

Q But you were asleep at that time, weren't you, when she went out? A She had that on in the evening; she didn't take it off; that is why I said that.

Q But you did not actually see her going out at all that night, did you? A No, sir, I didn't see her go out.

Q Do you remember after your arrest you were taken to a hospital, Bellevue Hospital, don't you? A Yes, sir, they took me to a hospital, but I don't know the name.

Q And you know why they took you to the hospital, don't you A No, sir.

Q Wasn't it because you tried to commit suicide in the

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prison here? A Yes, it is true, but I want to tell the story how that happened.

Q Wait a moment. We will let you give that later. And you were in the Bellevue Hospital for how long? A If I was 15 days or if I was there 20 days I couldn't state it.

Q Now, the morning of the 11th of August you got up at about five o'clock, didn't you? A Yes, about five o'clock, five or half past five, a little more or a little less.

Q You washed yourself and dressed yourself, didn't you? A No, I didn't wash my face. I thought it was late.

Q Five o'clock was late, and you didn't wash your face? A Well, I didn't look at the watch; I don't know what time it was, but I thought it was late, and I went out.

Q And you went right over to your work in Brooklyn? A Yes.

Q And you remained there until about five o'clock that afternoon; is that correct? A Yes, sir.

Q At five o'clock you went back to your home? A Sure.

Q What are the hours of work which your wife had at this rag shop? A She would start to work at five or half past five.

Q Start at five? A Or half past five.

Q And you say you expected to find her home upon your arrival? A Yes.

Q And how long after that was it that you saw a niece of the witness Salvatore Bontorno on the street? A We went over to the house.

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Q Well, didn't you tell us on your direct examination that you met a niece of Salvatore Bontorno, who patt[illegible] you on the back and said she had seen your wife that morning? A No, we went over to her house to see her.

Q Did this girl tell you that at her house? A Yes, she said that in her own house, and she said that in the shop where she worked the next morning.

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Q You did see Mrs. Cucce that night, didn't you, or the next day? A Who is that Cucce?

Q Do you know this young woman at the rail here (indicating Salvatore Bontorno)? A I know her.

Q Is that the young woman who told you she had seen your wife on Monday morning? A No, sir.

Q Who is it? A The sister-inelaw of this one.

Q Do you know her name? A I do not know her name.

Q Didn't you say it was a niece of Salvatore Bontorno? A I says it was a sister-in-law of the niece of my wife.

Q Do you know the woman Mrs. Cucce, the Godmother of your wife? A Yes, I know her.

Q You saw her on the witness stand on Friday, didn't you? A Yes, sir.

Q And you also know Mrs. Lambiase? A Yes.

Q And you know Mr. Stigliano? A No.

Q Don't you know Stigliano, the saloon keeper? A I know one by the name of Leopoldo; that is all.

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Q Leopoldo Stigliano, do you know him? A I do not know if his second name is Stigliano. I heard him called Don Leopoldo.

Q And you saw him here in court on Friday, didn't you? A I saw him.

Q And you heard what his testimony was, didn't you? A I didn't pay no attention to it.

Q Paid no attention to that. Don't you remember he said you had told him that your wife had gone away on Monday morning to work, and had not returned? A I said that because that woman that touched me on the shoulder said that to me, and I thought she was gone to her brother.

Q Did you tell the name of the woman that touched your shoulder and told you that, to your lawyer? A I told him, but the name of this person I didn't know.

MR. WASSERVOGEL: Can you help identify this woman, so we can have her here?

MR. SINGERMAN: I have been talking with my associate.

DEFENDANT'S INTERPRETER: The only person who can identify this woman is the defendant or some of the witnesses.

MR. WASSERVOGEL: Go out there in the corrider, and Mr. Hawkins will assist you.

Q There was one occasion upon which you spoke to Officer Digilio, and you told him, "I now want to tell the truth". Is that correct? A No, sir.

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Q Didn't even say that to him. Now, how long have you been mending your own shoes? A About ten or eleven months; I was mending only my sole, but not the uppers, because I don't know anything about it.

Q You know nothing about mending the upper part of a shoe; is that it? A The sole only, yes.

Q And one day about eleven months ago you met a Countryman of yours who told you that he is about to go to Europe and he sold you this shoe last, People's Exhibit No. 12; is that correct? A Yes, we were working together on the West Shore,

Q And he told you that while you were at work with him? A Yes, sir.

Q And he had this shoe last with him at that time? A He had that last there in his house.

Q At his house? A At his house. I told him to bring it up, that I would see it, and buy it, and he brought it up the next day.

Q The shoe last alone, nothing else? A Only that.

Q And you paid him for this 20 cents? A 20 cents.

Q Now, prior to the time that you bought this shoe last, you had never mended your own shoes? A Yes, before I was putting some nails under my shoes, but if the nail would go right, all right; otherwise, I would pull them out, because there was no last in my house.

Q Do you remember when you put these soles on these shoes, People's Exhibit No. 9 (handing same to witness)? When did you

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put the soles on these? A I bought those shoes the way they are now. I didn't put any soles on them.

Q Didn't you put this patch of leather on yourself? A No, sir, I bought those shoes in the Bowery, and I paid 20 cents for them.

Q Just as they are now? A Yes.

Q And how long have you had them? A About three months.

Q Your counsel asked you to fit this shoe last, People's Exhibit No. 12, which was found in your home, in the shoe, and you did so this morning. You remember that, don't you? A Yes, sir.

Q But your counsel did not ask you to fit into the shoe the shoe last found at the scene of the crime. Suppose you try that, and see whether this fits? Try it. Try that, will you please? Put this in and see whether this fits, People's Exhibit No. 2. A (Witness fits People's Exhibit No. 2 into shoe). It fits there a little hard, but there are so many like that.

Q The one found at the scene of the crime is a smaller size than the one found in your home, isn't it, slightly smaller? A I do not know if it is small, or large.

Q Isn't it a fact this is a new shoe last which you had never used at all, People's Exhibit No. 12, the one found on the shelf in your home? A I didn't use that. Why, sure, I use it once in two months, or once every three months. I am not a shoemaker that I use that every day.

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Q You were an experienced shoemaker. You used all these things, didn't you? Do you remember these articles which you identified as being your property on Friday last (indicating People's Exhibit No. 15)? A This piece of leather I found (indicating a piece of black leather), and this knife I found it also at the West Shore (indicating knife with a white handle).

Q You say you found this piece of leather on the street? A Yes, I found it in the car in the West Shore, where we unload the stuff, and also that knife with a white handle.

Q You say you found this knife also? A Yes.

MR. WASSERVOGEL: I think we had better mark these separately now.

(The piece of leather last referred to is marked People's Exhibit No. 18. The knife last referred to is marked People's Exhibit No. 19, of this date.)

Q And I suppose you also found these knives that I now show you (handing knives to witness)? A This belonged to my wife (indicating knife with black handle).

(Same is marked People's Exhibit No. 20, of this date.)

THE WITNESS: This I had, two like this one (indicating small knife with white handle).

(Same is marked People's Exhibit No. 21, of this date).

Q Is this the other one that you had (handing witness People's Exhibit No. 3)? A No, sir.

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Q You never saw that knife? A Never saw it before.

Q Did you find these nails on the street, also? A I bought them.

Q These are regular shoe tacks, aren't they? A Yes, sure.

Q And this instrument which I now show you, an awl, wasn't that used for the same purpose, when you were repairing your shoes? A Yes.

(Awl is marked People's Exhibit No. 22, of this date).

Q Where did you find this? A I brought that from Italy.

Q So, you were a shoemaker in Italy also, were you? A No, sir, I took them along with me to repair my shoes.

Q You sometimes repaired your shoes when in Italy, as well as in New York? A No, sir, no, sir.

Q You never repaired your shoes until after you got this shoe last, People's Exhibit No. 12; is that it? A I did fix my shoes before, but without any last, and when the nails wouldn't go right I would pull them out.

Q And you would use this thread to fix your shoes, and this file; is that correct (exhibiting same to witness)? A I bought that, but I never used it.

Q Did you buy this after you bought your shoe last, or before? A The same man that showed me the last give me that thread there.

(The thread last referred to is marked People's Exhibit No. 23, of this date.) The file last referred to is

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marked People's Exhibit No. 24, of this date.)

Q These pieces of leather which I show you were pieces of leather taken from shoes which you wore, werethey not? A I found those shoes and I took those pieces off. I thought I might need them sometimes to fix my shoes.

Q And you did, from time to time, use pieces of this leather for the purposes of repairing your shoes; is that correct? A Yes, sir, sure, when I needed it.

Q Did you find the hammer also? A No.

Q Where did you get that? A I bought the hammer. I paid five cents for it.

(Hammer is marked People's Exhibit No. 25, of this date.)

Q And you bought this hammer after you bought that shoe last, or before? A After I bought the shoe last.

Q Do you remember, after your arrest, the officers took off your shoes, the shoes you wore at that time, and fitted this shoe last, People's Exhibit No. 2, into those shoes? Do you remember that? A Yes, sir, I remember that.

MR. WASSERVOGEL: That is all.

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RE-DIRECT EXAMINATION BY MR. SINGERMAN:

Q Was this black pocketbook which you claim you lost larger, or smaller, than the red one -- or the read one which you claim you lost, was that smaller, or larger than this one in evidence, this black one? A Smaller than this one.

Q Why was it that you carried that red one, instead of the black one? A Because that was small, and it made less volume.

Q Do you recall the circumstance of having this transfer in the black pocketbook, on the 15th day of August? A I don't remember. Sometimes with another countryman of mine we would take the car, and then he would get a transfer and give it to me, and I would save it.

Q Do you recall whether you had both of these pocketbooks with you on the 15th day of August? A I don't remember.

Q So far as you know, you might have had them both, might you not? A I couldn't say if I had the both on me, or not.

Q Do you know what day you lost the red pocketbook? A The day, no, but the month I could state.

Q And what month was it? A The month of April.

Q Then, as a matter of fact, you could not have had both pocketbooks with you in the month of August, when you took this ride, could you? A I don't remember.

Q Well, if you lost it in April you did not have it in August, did you?

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MR. WASSERVOGEL: It seems to me, your Honor, that counsel is arguing with the witness now. He is arguing with his witness.

THE COURT: Well, if you object to the question --

MR. WASSERVOGEL: I object, yes.

THE COURT: Very well; I will sustain your objection.

Q You are quite sure you lost the red pocketbook in April; that is what I want to know? A The pocketbook that I had the money in, yes, smaller than this, I lost in the month of April.

Q And that was of a red color? A Yes, red color.

Q Now, did you use any other pocketbook after that other than this black one? A I had this one and two others.

Q And what was the color of the other two pocketbooks that you still had after you lost the red one? A Red also.

Q Was it of the same make, the same kind of pocketbook as the one that you had lost, this red one that you also had? A Yes, it was made the same way. In fact, I had another one besides that one. I had two of those red ones.

Q Now, which pocketbook did you use of the remaining ones to carry your money in in the month of August, if you recall? A This small one that has a clasp right on top, you open like this (witness indicates by turning his thumb and index finger

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from right to left), and it had two pockets inside.

Q Did you carry more than one pocketbook with you in the month of August? A I believe I always did carry one. What should I do with two pocketbooks?

Q So that, as you have testified heretofore, a friend might have given you that transfer, which you possibly placed in this pocketbook; is that what you want to say? A Sure.

Q And do you mean to tell the jury that you placed the transfer in the pocketbook at the time you got it, or at the time you got home, which? A Well, when we were in the car there, I was putting the transfer in my pocket, and after, when I got home, I take everything out of my pocket and save it.

Q Now, you have testified here that your wife would ordinarily start to work at seven o'clock in the morning. Do you know of any occasions when she left the house at five, or half past five in the morning, to go to work? A She couldn't go to work at five o'clock, but leave the house at five o'clock, yes, sir.

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Q Many times did she leave the house at five o'clock? A Why, certainly, a good many times, sometimes to go out and buy provisions, and sometimes to go and see her brother.

Q Would it have occurred that when she went out so early that you remained at home and left thereafter for your work? A Yes, yes.

Q Now, what jewelry did your wife own? A I didn't pay

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no attention if she had any, earrings or not, but I know she had a bracelet and rings.

Q What jewelry did she have on on the night of August 10th? A A bracelet and all the rings that she had.

Q How many rins did she have? A Five or six, something like that.

Q Can you describe these rings? A No, sir, I didn't pay no attention to them.

Q Did you give her any of these rings? A Yes, I don't know how it was, they give it to me and I give it to her.

Q Who gave it to you? A I bought it.

Q From whom did you b uy the ring? A A Jew named Louis.

Q What kind of ring was it? A I didn't pay no attention. I only paid a dollar and a half for it.

Q I ask you if you recognize People's Exhibit No. 13, this ring (showing same to witness)? A No, sir, I told you before I know nothing about the rings.

Q You don't recognize that at all? Have not seen it upon her finger? A I say that I do not know.

Q Do you know the approximate value of all the rings that she had on?

MR. WASSERVOGEL: Objected to. The man can't even describe the rings, and he asks this man who knows nothing about jewelry such a question.

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THE COURT: What is the object which you have in view?

MR. SINGERMAN: The statement the District-Attorney made at the outset was that this woman disappeared with all her jewelry on, emphasis upon "all her jewelry", and she was killed that night. There may be a question as to whether she was killed for her jewelry.

THE COURT: Well, I take it that the value, concededly, was small, wasn't it, Mr. District-Attorney?

MR. WASSERVOGEL: They are all insignificant. Here is a specimen of it, worth a few pennies at the most.

THE COURT: That is conceded?

MR. WASSERVOGEL: Yes.

THE COURT: I will sustain the objection. You withdraw your question, I take it?

MR. SINGERMAN: I will withdraw it on that score.

Q Now, you have replied to the District Attorney's question that you tried to commit suicide while in the Toombs, Will you explain to the jury why you tried to commit suicide ? A Well, I was never arrested before; I was never in trouble before. When I saw myself in the cell, in prison, I says, "I think I will die here, so before that I will kill myself"; and that is why.

Q Did you tell that to the officer who interviewed you, Officer Digilio? A I don't remember if I said anything to him, or not.

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MR. SINGERMAN: That is all. 474

MR. WASSERVOGEL: That is all. It is conceded that, on the 10th day of August, of the present year, there were thunderstorms, and that rain fell between 6:02P.M. and 6:45P.M., between 8:20P.M. and 9:00P.M., and that the following morning it rained between 12:46 A. M. and 2:45 A.M.

THE COURT: In that concession, do you mean continuously, or only that showers happened?

MR. WASSERVOGEL: Of course, that we can't tell. There is no way of telling that, your Honor, but there is no dispute about it. Counsel wanted that to go in, that it rained intermittently.

THE COURT: You understand, gentlemen, it is not conceded that there was a continuous rain, but that there was rain only to that extent.

THE FIFTH JUROR: Did it rain at 2:00 A.M. Monday morning?

MR. WASSERVOGEL: There is no way of telling whether it rained at that particular moment, Mr. Juror.

MR. SINGERMAN: I think your record shows it rained from 12:45 until 2:00 in the morning.

THE COURT: Those times concededly being approximate only.

MR. WASSERVOGEL: Yes.

MR. SINGERMAN: I am going to ask the Court's indul-

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gence, with the consent of my friend, the District-Attorney, on an adjournment until tomorrow morning, on the ground we are attempting to find this woman, this witness who is very important.

THE COURT: Have you any other witness you can put on now? Have you, Mr. District-Attorney?

MR. WASSERVOGEL: We have, but the People have rested.

THE COURT: "Yes", or "no"?

MR. WASSERVOGEL: We have not anything to offer at the present time. I understand Mr. Singerman had some character witnesses.

MR. SINGERMAN: I have two or three character witnesses.

THE COURT: Well, put those on now.

MR. SINGERMAN: I am going to make my utmost endeavor to get this woman here.

THE COURT: Yes, there is no criticism directed to your conduct of the case.

S A L V A T O R E G I A N P I C C O L O, called as a witness on behalf of the defendant, being first duly sworn and examined through the official interpreter, testified as follows:-

DIRECT EXAMINATION BY MR. SINGERMAN:

Q What is your full name? A Salvatore Gianpiccolo.

Q Where do you live? A 83 Elizabeth Street.

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Q What is your business? A Laborer.

Q And for whom do you work? A A contractor for the Metropolitan.

Q Do you know the defendant, Gregorio Giordano? A Yes, I know him.

Q How long have you known him? A I knew him from Italy.

Q How long did you know him in Italy? A I am thirty years old, and I know him since the time I commenced to know him.

Q How many years?

MR. WASSERVOGEL: I will concede that he knows him. Go ahead.

BY THE COURT:

Q Do you know others who know him? A Yes, sir.

Q Do you know his reputation for peacefulness and quietness in the community in which he lived? A Yes, in Italy, from the time that I knew him, nobody had to say anything against him.

BY MR. SINGERMAN: What is his reputation for truth and veracity in the community in which he lives? A Yes, in Italy he was a very good man, you could trust him with everything.

Q And how in this country? A I know nothing about America.

MR. SINGERMAN: That is all.

MR. WASSERVOGEL: No cross-examination, and I am

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willing to concede that these three other young men in the courtroom will testify to the same effect.

MR. SINGERMAN: Very well.

THE COURT: It is conceded, gentlemen, that these three witnesses if called will take the stand and give similar testimony as to the defendant's good character.

MR. SINGERMAN: At this stage, I ask your Honor for an adjournment until tomorrow morning.

THE COURT: Gentlemen, while it still lacks fifteen minutes of the hour of adjourning, I find we gain in efficiency by sometimes adjourning a little bit early. Counsel has expedited the case. There has been no loss of time, and now that they ask a perfectly reasonable thing, an adjournment at this time, it seems to me it is the duty of the Court to grant it. Do not talk about this case, nor permit anyone to talk to you about it, nor form nor express any opinion thereon, until the case shall finally be submitted to you. Come back tomorrow morning, gentlemen, at 10:30 sharp.

(The Court accordingly took a recess until tomorrow, Tuesday, October 21st, 1913, at 10:30 A.M.).

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THE PEOPLE ETC.
against
GREGARIO GIORDANO.

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New York, Tuesday, October 21st, 1913.

T R I A L C O N T I N U E D.

F R A N C E S C O T E V E R E, called as a witness on behalf of the defendant, being first duly sworn and examined through the official interpreter, Diadato Villamena, testified as follows:-

DIRECT EXAMINATION BY MR. SINGERMAN:

Q What is your name? A Francesco Tevere.

Q Where do you live? A 124 Mott Street.

Q What is your business? A Laborer.

Q Do you know the defendant, Giordano? A Sure, I know him.

Q How long have you known him? A From the time that I was born.

Q How long have you known him here in the City of New York? A From the time that I came to New York.

Q Well, how long ago is that? A The 15th of Last August was one year that I am in America.

Q Did you ever live in the same house with him? A Yes, when I came from Italy I lived with him.

Q And how long did you live with him in the same house? A Seven months.

Q And where was that? A 124 Mott Street.

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Q Do you recall ever seeing a shoe last in the possession of the defendant during the time that you lived with him? A Yes, he had one.

Q Would you recognize it if you saw it here? A Sure, I would recognize it.

Q Will you come down here at the table and pick out the shoe last on this table that you recognize? A (Witness picks out people's exhibit No. 12) This is the one.

Q Did you ever see this shoe last before? (Indicating people's exhibit No. 2) ? A No, sir, I only saw that one (Pointing to people's exhibit No. 12)

Q And how do you particularly remember exhibit No. 12 as being the shoe last that you saw in the possession of the defendant, and not exhibit 2? A I know because at one time I used that last there in my shoes, to put some nails in my shoes.

Q What particularly identifies that shoe last, people's exhibit No. 12, as the shoe last that you put in your shoe? A I know because I used that in my shoes, and because I lived with him.

Q How do you distinguish these two shoe lasts so as to pick out exhibit No. 12 as the one, and not exhibit No. 2? A Because this last here has not got the split that the other one has got there at the point where it raises up. (Indicating people's exhibit No. 12).

Q How often have you borrowed this shoe last, exhibit

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No. 12, from the defendant? A Only once. Only once I used it, but I saw that very often in the hands of the defendant, because we lived together.

MR. SINGERMAN: Your witness.

CROSS EXAMINATION BY MR. WASSERVOGEL:

Q Are you related to the defendant? A No, sir.

Q But you have known him all your life? A Yes, sir, I know him from the town where I come from.

Q And how old are you? A Twenty years.

Q Did you know the defendant when he was in South Auerica? A I was in Italy at that time, and I knowhim before he went to South America. I told you I know him since the time I was born.

Q When did you come to this country? A On the 15th of last August it was one year that I landed in this country.

Q So that, you arrived here on the 15th of August of last year, is that correct, 1912, ? A Yes.

Q And you went to live with a Mrs. Larocca, didn't you? A That is all right.

Q I am not asking for your approval. I am asking if that is a fact? A Yes.

Q And the defendant lived with Mrs. Larocca at the same time, did he? A Yes.

Q How long did you continue to live with Mrs. Larocca;

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after the15th of August? A I lived always with Larocca; I live at present with Larocca.

Q You did live with her upon your arrival in this country, did you not? A Yes, yes.

Q And how long after your arrival, on the 15th of August, 1912, did you continue to live with Mrs. Larocca? A I did always live with Larocca.

Q Now, you say you lived with her all the time, and you still live there, do you? A Yes, sir.

Q Since your arrival in this country, have you lived with any one else other than Mrs. Larocca, will you answer that? A I lived always with Larocca.

Q And what kind of shoes did you wear when you came here from Italy? The same kind as you have on now? A Italian shoes.

Q And how long after your arrival here did you borrow the shoe last from the defendant? A About four or five months or six months before he went away.

Q Well, when was that? A About four or five or six months, I told you; I don't remember that.

Q You say you first borrowed the shoe last about four or five or six months before he went away. Now, where did he go to? A No, four, five or six months after I landed here in this country.

Q Four or five or six months after you landed in this

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country; is that what you want to say now? A Yes, something like that, yes.

Q And was that around Ciristmas time? A Maybe near Christmas, I don't remember.

Q How long before you borrowed the shoe last from him had you see the defendant using it? A He didn't have a last at the beginning, and he sais to me, "Frank, let's buy the last together, me and you, so we could use it together", and he bought the last himself, alone.

Q How long was that before you borrowed the last? A A month, or two months. The shoes that I brought from Italy were all right, but when I used them here a little while they got broke.

Q So that was about two or three months after August 15th? A Three or four months, yes.

Q Three or four months, what? A Yes, from August three or four months after August.

Q Before August, or after August? A After August.

Q And that was the first time that you saw the shoe last? A Sure.

Q Now, before you saw the shoe last in the defendant's possession, did you ever see him fix or mend his shoes? A No, I didn't see it; I never see himbefore.

Q How often did you see the defendant mending his shoes? A Every fifteen or twenty days, whenever his shoes will get broke, he will fix it.

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Q Did you ever see any of these things there in the house (Indicating hammer and different knives and so forth) A No, sir.

Q Did you ever see any of them? A No, sir.

Q You never saw this piece of leather, either, I suppose (Indicating people's exhibit No. 18) A I didn't pay no attention to it.

Q Or this other leather which is shown to you now, (showing leather to witness)? A He had a good many pieces of leather, but I could not remember them.

Q Do you remember whether the defendant received anything else from the man from whom he bought the shoe last at that time, any of these things here? A I know nothing about that.

Q And he asked you to go into partnership with him as to the ownership of that shoe-last didn't he? A Yes, sir.

Q And you refused to do it, I suppose, because the cost was too high; is that it? A It was not about the price. He asked me, and I said "yes" to him, but after a little while he brought the last home, bought it himself.

Q You were here yesterday afternoon, weren't you? A Yes.

Q You were called as one of the character witnesses, and you took your seat on that chair over there, didn't you? A Ye

Q And you saw these shoe lasts in court yesterday, didn't you? A No, sir, I didn't see them.

Q You had been in court the day before, hadn't you,

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Friday of last week? A Yes, I was here.

Q You were in court every day of this trial? A Not inside of the court, no.

Q The only time you were inside of the court was yesterday, when you were called as a character witness? A Yes.

Q But you have known for some time that this shoe-last plays an important part in this case, haven't you? A I don't know about that, I know that that shoe-last is his.

Q When for the first time did you hear that this shoe-last plays an important part in this case? A Now.

Q Only today for the first time? A This morning.

Q For the very first time. Now, you have talked about this case with the defendant since his arrest, haven't you? A No, I never talked about it with him.

Q Didn't visit him in the Toombs? A I went once only.

Q When were you in the Toombs? A About a week ago.

Q And that was the only time you visited him in the Toombs was it? A That is the only time.

Q And you talked with him about the case then, didn't you? A Yes, he told me, "Did you hear when the case will come to trial?", and I said to him, "the 15th", and that is all.

Q How did you know it was coming to trial on the 15th? A His nephew, his cousin, told me that.

Q So, you have been talking with his cousin as well as with the defendant? A Sure, I talked with him.

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Q And you talked with the lawyers for the defendant also, haven't you? A No, I didn't speak with the lawyers.

Q Or with the interpreter that the lawyer has employed in this case? A No, I didn't speak to him.

Q Didn't you tell the Interpreter, Mr. Singerman's interpreter, what you were going to testify to here today? "Yes", or "no"? A Yes, I told him.

Q When did you tell him? A This morning.

Q Then, you knew about the shoe last before you took the witness stand, didn't you? A Yes, I knew it.

Q And you knew about the shoe-last when you spoke to thedefendant in the Toombs, didn't you? A No, at that time I knew nothing about the last. Now I heard about the last.

Q For the very first time today? A Last night and today.

Q Now, you change your answer and you say you heard of it last night. Now, with whom did you speak about this shoe-last last night? A Last night the interpreter of the lawyer with another man, an English fellow, come to me and asked if I know about this last, if I saw it before, and I told it.

Q They did not know you knew anything about the last before they came to you, did they? A I do not know if they knew or not.

Q You had given your name to them as a character witness before yesterday, had you not? A Sure, I give them my name.

Q And, had you beenn placed on the witness stand yester-

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day afternoon, you would have testified to the defendant's reputation; isn't that correct, and to that alone? A That is all, yes.

MR. WASSERVOGEL: That is all.

RE-DIRECT EXAMINATION BY MR. SINGERMAN:

Q Now, where did you meet this interpreter and the gentleman that accompanied him last night? A In Mott Street.

Q Was it anywheres near the place where you board? A In front of my house, yes, in the store.

Q At the boarding house? A 124 Mott Street, yes.

Q Did you see the man with whom you talked speaking with the housekeeper where you board? A No, I didn't see it.

Q Were you present at the time that Giordano bought this shoe-last? A No, I was not present. I saw the last in the house.

Q So that, if he got anything else with the shoe-last at the time he bought the shoe-last, you would not have known it, would you? A Yes, I do not know.

Q What was the last time you visited the defendant's home in Mott Street before August 10th? A I do not know. I couldn't remember the date, but it must be, maybe ten days or fifteen days before.

Q And what was the occasion of your going to his house in the month of August, or the latter part of July? A I went there as a friend and as a countryman, to pay him a visit.

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Q How long did you remain? A About half an hour, or a quarter of an hour.

Q Did you seethat shoe last in his rooms at that time, Exhibit No. 12? A No, sir, I didn't see it.

Q I am speaking now about Exhibit No. 12, the one that you claim you had seen before in his possession. Did you see that one at his home on the last visit that you made? A No, I didn't see it.

Q Did you see any shoe-last there at that time? A No, sir.

Q When was the last time that you saw that shoe-last, People's Exhibit No. 12, in his possession? A I saw him before he went away. He went away, I think, in the month of April. I saw him in the month of March.

Q Then, you did not see that shoe-last after the month of March? A I didn't see it no more.

Q Do you recognize this gentleman (indicating officer Digilio)? A Yes, I know him.

Q Where did you ever see him before? A I saw him; he came in my house.

Q When? A Near the time of the crime.

Q Did you have any conversation with him at that time? A Yes.

Q Was the conversation about a shoe last? A No, we didn't speak about it at that time. About three days ago, yes.

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Q What conversation did you have with him three days ago about a shoe-last, and where did it take place? A About three days ago he says to me, "Are you sure you know the last belonging to Giordano?" I says "yes, I do." He said, "If you do come along with me"; so he took me up to the house, and when we got in the house he led the boss of the house in another room, to one side, and called me to one side, and said, "This is the last of Giordano's, and showed me People's Exhibit No. 2. I told him that is not the one.

Q Did he show you any other last at that time? A No, that is the only one.

Q Now, was this conversation before the interpreter from my office spoke to you, or was it after he had spoken with you? A Before the man from the lawyer's office.

Q When you told him that Exhibit No. 2 was not the shoe-last of the defendant, what did Officer Digilio say to you? A He didn't say nothing more to me.

Q Did he ask you to come in this court and see the District-Attorney, after you answered him that way? A No, sir.

Q Did he tell you to go home? A He didn't tell me nothing. To see this last, he took me up to the fourth floor. We took the elevator.

Q In this building? A Yes, sir.

Q Did Officer Digilio tell you to go home yesterday? A No, sir, he didn't tell me nothing.

Q Did he ever tell you to go home from this courtroom?

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A No, sir, never said nothing.

MR. SINGERMAN: Your witness.

RE-CROSS-EXAMINATION BY MR. WASSERVOGEL:

Q So that, you knew about this shoe-last before last night, didn't you? "Yes", or "no"? A No, I didn't know nothing about it.

Q You say that Officer Digilio spoke to you about it? A He told me to come along with him, and he showed me this last I didn't know what this last was about; and that is the reason I said I didn't know nothing.

Q Didn't the defendant, when you spoke to him in the Tombs, tell you he was charged with having killed his wife with a shoe-last? A He didn't tell me nothing of the kind.

Q Didn't he tell you that he wanted you to be a character witness for him? A No, sir.

Q He did not tell you what he wanted you to testify to; is that it? A No, he didn't tell me nothing.

Q Can you read? A No, sir.

MR. WASSERVOGEL: That is all.

BY MR. SINGERMAN:

Q Who did ask you to become a character witness for the defendant? A The lawyer.

Q Whose lawyer? A The Italian lawyer.

Q After he had questioned you in your language and found out what you knew about the defendant, it was then that he ask-

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ed you to become a character witness; is that not true? A Yes he asked me, "Do you know Giordano?" I said to him, "sure, I know him." "How long do you know Giordano?" "From the time that I was born." "Do you know Giordano to be a good man, if he did anything wrong?", and I says to him, "no, I know Giordano to be a good man; in fact Giordano was never called even as a witness".

BY MR. WASSERVOGEL: Q You were called as a character witness yesterday, weren't you? A Yes.

Q Now, answer this "yes", or "no". And you were asked to be a character witness by the interpreter before yesterday, weren't you? A Yes, before yesterday.

Q How long before yesterday? A From the first day that the case began.

Q From the first day that the case began? A Yes, sir.

Q And how many times had he asked you to be a character witness? A Every day.

Q Did you speak to the interpreter yesterday before you came into the courtroom? A Yesterday, no.

Q Not here, but outside anywhere? A No, sir, not yesterday.

Q Did you tell the interpreter, or anyone else, that officer Digilio had spoken to you about a shoe-last? A I told them last night.

Q For the first time? A Yes.

MR. WASSERVOGEL: That is all.

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MR. SINGERMAN: That is all.

BY THE SECOND JUROR:

Q What part of the shoes did the defendant mend when he used the last? A The sole only.

Q Never the uppers? A Yes, sometimes when he needed it he would put a stitch here (indicating alongside of the upper of the shoe).

BY MR. WASSERVOGEL:

Q A stitch? A Stitches.

Q Have you spoken to Barbosa about the case -- your landlord? A No, I didn't speak to him.

MR. WASSERVOGEL: That is all.

MR. SINGERMAN: That is all.

A N G E L A B A S C I R E A, called as a witness on behalf of the defendant, being first duly sworn and examined through the Official Italian Interpreter, Diadata Villamena, testified as follows:

DIRECT EXAMINATION BY MR. SINGERMAN:

Q What is your name? A Angela Bascirea.

Q Where do you live? A 124 Mott Street.

Q What is your business? A Working.

Q Do you keep a boarding house as well? A Sure.

Q And where is that place? A 124 Mott Street, third floor; the numberof the door is 23.

Q Now, do you know Giordano, the defendant here? A Sure

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I know him. He lived eighteen months in my house.

Q Did you know him before the time he lived in your house? A No, sir.

Q And he boarded with you during the eighteen months he was at your house, did he not? A No, sir, he only had a room there.

Q Now, do you remember ever seeing a shoe-last in his possession during the time that he was with you? A Sure, I remember.

Q Would you be able to identify the shoe-last if you saw it here? A Certainly, sure, if I see it I would recognize it. They took me upstairs, to show me a last, and I said it was not the last. Upstairs they showed me this one (indicating People's Exhibit No. 2), and this is the one that he used xx at my house (indicating People's Exhibit No. 12).

Q So that, Exhibit No. 12 is the shoe-last that he had at your house? A (In English) Yes, sir.

Q Do you speak English? A I don't speak English, but I said "yes".

Q You told that to somebody in this building, upstairs? A Yes, I said upstairs if I would see the last I would recognize it.

Q Now, you were subpoenaed by the District Attorney yesterday to come to this court, were you not? A Yes, sir.

Q Have you that subpoena? A Yes, (producing paper)

Q And the District-Attorney did not ask you to testify

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yesterday, did he?

MR. WASSERVOGEL: Well, that is conceded. No question about that. The record shows that.

Q I ask you to look at this gentleman, Officer Digilio, and say whether this is the gentleman who took you upstairs in this building and asked you to identify the last (indicating Officer Joseph Digilio, who stands at bar of court). A Yes, that is the man.

Q Did he come to your home first and take you to this building? A Yes, when Giordano was arrested, yes, he came to my house.

Q And at that time on what floor did he take you in this building? A Fourth floor.

Q Did you meet anybody else besides this gentleman there? A Two other persons. He showed me the last, and then he took me downstairs.

Q Do you recognize either of these gentlemen, Assistant District-Attorney Murphy --

MR. MURPHY: She was in my office. That is conceded.

MR. SINGERMAN: It is conceded that the witness met Assistant District-Attorney Murphy on that occasion.

MR. MURPHY: She was there on one occasion; I don't concede that date. She was there on the 22nd day of August.

Q Now, on the day that Officer Digilio took you on

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the fourth floor of this building, to the office of Mr. Murphy, did they have both of those shoe-lasts before you? A No, only one was shown to me.

Q And that was the one you referred to as People's Exhibit number two and you stated at that time that this was the shoe-last that the defendant had in his possession, did you not? A Yes, sir.

Q Now, will you state what was the last time, to the best of your recollection, that you saw People's Exhibit No. 12, the shoe-last that the defendant owned, in his possession? A Before he left my house.

Q And when was that? About what month? A Four days before he got married.

MR. SINGERMAN: Your witness.

CROSS-EXAMINATION BY MR. WASSERVOGEL:

Q Now, you say that the defendant lived in your home as a lodger for about eighteen months; is that right? A Yes.

Q And he lived with you until the time of his marriage? A Yes, four days before he got married he left my house.

Q You and your husband have been very friendly with the defendant, have you not? A Why, certainly, a man that lives in the house naturally is a friend. If he is not a friend, he would leave the house.

Q Did you know his wife? A Yes, I knew his wife, because he brought her over to my house only once before

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he got married to her.

Q Did you see his wife at all after the marriage? A No.

Q When did you for the first time hear of her death? A I only heard when she was missing. I didn't hear about her death and I don't remember it, because I was working.

Q When for the first time did you hear that she was missing? A On Tuesday.

Q And who told you? A A neighbor.

Q How long after the neighbor told you that the defendant's wife was missing did you hear of her death? A On Friday.

Q Of the same week? A In the evening, when I came home from work.

Q Friday of the same week? A Yes.

Q Do you read and write? A Yes, sir, in Italian, yes.

Q Did you read the Italian newspapers that day? A That day, no, but I read the newspaper afterwards.

Q You have read the Italian newspapers containing an account of this woman's death? "Yes", or "no"? A Yes, I read it.

Q And you knew then that it was suspected that this woman had been killed with a shoe last? A I don't remember. I didn't read the newspaper in regard to this.

Q Did you read the Bulleteno? A No, sir.

Q What paper did you read? A The Italian newspaper. That is, I read a newspaper whenever I find it, but I never

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buy any.

Q You say you did read the account of this woman's death in the newspaper, an Italian newspaper? A Yes.

Q Didn't you read that this woman was killed with a shoe-last? A No, sir.

Q Didn't your neighbors tell you that she had been killed with a shoe-last? A No, sir.

Q When for the first time did you hear that this shoe-last played such an important part in this case? A From the first time, it was when they sentenced a Nigger to a year in this court-room, and the detectives took me upstairs to the fourth floor, and he asked me if I could recognize the last that this defendant had if I would see it. I said "yes". He took me upstairs and he showed me that last, People's Exhibit No. 2, and I said "That is not the one".

Q Now, that was the very first time that you heard that there was a shoe-last in this case; is that it? A Yes, right in the court-room.

Q Have you ever visited the defendant in the Toombs? "Yes", or "no". A No.

Q The last witness, Francesco Tevere, was one of your lodgers, was he not? A Yes, sir.

Q And you had three or four other lodgers; isn't that so? A Yes, this Francesco Tevere and one more man.

Q Have you discussed the arrest of your former boarder and friend, Mr. Giordano, with your other boarders? A No, sir.

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MR. SINGERMAN: One moment, I ask the District-Attorney to properly designate it. He was meerely a roomer.

MR. SINGERMAN: (To the Inpertreper) Ask her that question, using the word "lodger" instead of"boarder"

THE WITNESS: No, sir.

Q Never talked about this woman's death? A No, sir.

Q And when for the first time did you see ashoe-last in the defendant's possession? A When he was living with me he bought the last.

Mod-75 Q. And how long was that after he first commenced to live with you? Look at me, please. Don't look over there? A I don't remember if it was six months, or eight months. I couldn't know that, anyway, because I was not home; I was working; and I was not paying attention to whatever he was doing.

Q Well, you say that you knew his shoe-last; you frequently saw him use it, didn't you? A Why, certainly, sure, I told you that I know the last. It was shown to me, and I recognized it, and I know and know that that is the last.

Q And he lived with you for eighteen months before April of this year; is that correct? A Why, certainly.

Q Now, will you give us your best recollection as to how long after he first came to live with you that he obtained the shoe-last?

MR. SINGERMAN: Objected to. The witness has already

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testified that it was six to eight months after this --

MR. WASSERVOGEL: No, she didn't say it was six to eight months.

THE COURT: She may answer. Objection overruled.

MR. SINGERMAN: I take an exception.

A If it was six months, eight months, or one year, I don't remember.

Q Now, isn't it a fact that when Officer Digilio took you upstairs, last Friday, in the District-Attorney's office, he showed you both of these shoe-lasts, and you told Officer Digilio that you could not recognize either one of them? A No; he only showed me one, and I said "This is not the one. If I would see the last I would know it".

Q Didn't you even tell Officer Digilio that the last that the defendant had had a long stem on it? A No, I said to him this last here was not his, because up here you need to put something in, where in the other one you don't need to put nothing; there goes only the sole in.

Q You don't have to put anything in this one at all (indicating People's Exhibit No. 12); is that what you told him? A I said that in this one, People's Exhibit No. 2, you need to put a piece in when you put on the shoes, and this one you don't need to put anything in (indicating People's Exhibit No. 12), and he didn't have that piece to put it in; that is why.

Q Did you ever see an extension on the one the defendant

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used? A No, sir, he didn't have any. 474

Q Did you ever see any of the articles which are before you here, these knives, or hammer? A I didn't see the knife.

Q Never saw the knife? A This one I saw (indicating People's Exhibit No. 23), and this one (indicating People's Exhibit No. 25).

Q So, the only things which you saw was this awl, People's Exhibit No. 23, and the hammer, People's Exhibit No. 25, but you never saw any of these knives that are before you? A This knife I saw (indicating People's Exhibit No. 21).

Q Just the penknife, eh? A Yes, sir.

MR. WASSERVOGEL: That is all.

THE COURT: Does that complete your case?

MR. SINGERMAN: I have two more witness on that point, which is very important, the question of the identification of the shoe-last.

THE COURT: I will hear your testimony, of course. (To the jury) Do not talk about this case, nor permit anyone to talk to you about it, nor form nor express any opinion thereon, until the case shall finally be submitted to you. It is now the hour for intermission. We will take a recess until two o'clock.

(The Court accordingly took a recess until two P.M.).

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AFTER RECESS

FRANCESCO TEVERE, being recalled, testified, through the Official Interpreter, Diadato Villamenal, as follows

BY MR. WASSERVOGEL:

Q You told us this morning that Officer Digilio took you upstairs into the District Attorney's office and showed you one large last. That was corredt, wasn't it? A One, yes.

Q And that was the only time that you were up there? A Once before, at the time when the crime was committed.

Q But the shoe last was shown to you by Officer Digilio on one occasion only? A Yes.

Q And who else was present at that time? A Angelo Boscirca.

Q I mean in the room when this shoe-last was shown you? A Another American. I don't remember if there was one or two Americans.

Frel 76 Q Do you recognize the three gentlemen standing at the rail (indicating Mr. Breckenrige, Assistant District-Attorney, Sergeant Willemse and Joseph Davidson)? A The little one, yes (pointing to Assistant District-Attorney Breckenridge).

Q Do you recognize Sergeant Willmse? A I don't remember I remember the one in the centre.

Q Do you recognize the short man, Mr. Davidson? A I do not recognize him.

Q But you won't say they were not present? A I will

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not state that.

MR. SINGERMAN: It seems to me it is improper at this stage of the proceedings to recall witnesses who have appeared for the defense.

MR. WASSERVOGEL: We have to recall the witnesses in order to have the right to rebut it later on.

THE COURT: There is no question pending. I cannot rule on an objection when there is no question.

MR. SINGERMAN: I take an exception.

A N G E L A B O S C I E R C A, being recalled, testified, through the official interpreter, Diadato Villamena, as follows BY MR. WASSERVOGEL:

Q You told us this morning that Officer Digilio took you up to the District Attorney's office and showed you one shoe-last; that is correct, isn't it? A Yes, sir.

Q And that shoe last was shown you on one occasion only? A Yes, once.

Q And that was last Friday? A The day when a nigger fellow was sentenced down here.

Q Several days ago. Now, who else was present at that time? A I was there, with Francesca Tevere, the officer, and another man that came with us down in the elevator.

Q Was Mr. Murphy there, this gentleman (indicating Assistant District-Attorney Murphy)? A I don't remember; I pay no attention to who was there.

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Q Do you see those three men coming in the door (indicating Assistant District-Attorney Breckenridge, Police Sergeant Willmse and Joseph Davidson)? A Yes, I see them.

Q The three of them were in the room at the time? A I couldn't pay no attention -- I didn't pay no attention that day who was in the room and who was not in the room, only they showed me the last. I took it in my hands and said "that is not the one".

Q You won't swear these men were not there, will you? A I could not swear.

Q Now, isn't it a fact that when you were brought into that room in the presenceof those three men who have just left the room, these two shoe-lasts, People's Exhibit No. 2 and People's Exhibit No. 13, were lying on a table, and both were called to your attention by Officer Digilio? A No, there was only one last there, and I said to him, if I would see the one that belong to Giordano I would recognize it.

Q Which one did you say did belong to Giordano? A That one (witness pointing to People's Exhibit No. 12).

Q Were you shown that last in the office? A No.

MR. WASSERVOGEL: That is all.

G I O V A N N I L A M A N D A D O L A, called as a witness on behalf of the defendant, being first duly sworn and examined through the Official InterpreterDiadato Villamena, testified as follows:

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Q What is your name? A Giovanni Lamandadola.

Q Where do you live? A 116 Mott Street.

Q What is your business? A Laborer.

Q Do you know the defendant, Giordano? A Yes.

Q How long have you known him? A About fourteen months.

Q Where did you meet him first? A I met him in the s
each
street, greeting/others.

Q Did you ever visit him at his home? A No, sir.

Q Did you ever live with him after you became acquainted with him, in the same home? A No, sir.

Q Do you know whether the defendant, Giordano, ever owned a shoe-last, an iron shoe-last? A Yes, sir.

Q And when did you first learn that he owned an iorn shoe-last? A From the time that I arrived from Italy.

Gal 71 Q And when was that? A The 15th day of August last year.

Q Do you mean 1912, or do you mean 1913? A 1912.

Q Now, how did you come to know, in the month of August 1912, that Giordano owned an iron shoe-last? A Because he was fixing his shoes, and when I needed to repair my shoes, put some nails in my shoes, I would ask him to give it to me.

Q Did you live close together, so that you could make thi request? A Lived in the same house.

Q Lived in the same house? A Yes.

Q Do you mean in the same apartment, the same flat? A Yes

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Q How long did you live with him in the same flat? A Eight months.

Q How often did you see this iron shoe-last during the eight months that you lived with him? A Three times.

Q How many rooms did this defendant have at the time that you lived with him? A Four rooms.

Q And where were those rooms? A 125 - 126.

Q On Mott Street? A Yes.

Q Now, do you know whether Giordano, the defendant, rented all of those rooms, or whether he was just rooming at this place? A He was a roomer.

Q Now, I will ask you if you can step down to this table and identify the shoe-last that you saw in his possession at that place? A This is the one (indicating People's Exhibit No. 12).

Q That is the shoe-last that he had? A Yes.

Q Did he have more than one shoe-last during the time that you knew him? A No; one.

Q I ask you to look at People's Exhibit No. 2, and ask you whether you ever saw that shoe last before (showing same to witness?) A No, sir, only one, the first one.

Q Will you tell this jury how you recognize People's Exhibit No. 12, this shoe-last, as the shoe-last of the defendant, in distinction from the other shoe last? A That one, People's Exhibit No. 12, has got the eye right

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straight in, and the other one is different.

Q Is there any other way by which you distinguish the shoe last besides that? A No, sir.

MR. SINGERMAN: That is all. Your witness.

CROSS-EXAMINATION BY MR. WASSERVOGEL:

Q You are a very good friend of this defendant, aren't you? A Yes, a friend.

Q And you lodged with him in thesame boarding house, or lodging house?. A Yes.

Q You live with this Mrs. Larocca, who was a witness here today? A Yes, sir.

Q And you first went to live with Mrs. Larocca when ? A 13th day of August, last year, 1912.

Q And had you just arrived from Italy at that time? A Yes, sir.

Q And you say a few days after your arrival, on the 13th day of August, he loaned you a shoe-last; is that it? A Sure.

Q And how many times after that did you again see that she-last? A About two or three times after.

Q Did you ever see the defendant use it? A Yes, sir.

Q How often? A Five or six times, to fix his shoes.

Q And what would he do when he fixed his shoes? How did he fix them? A He would put the sole on the shoes, put the nail on, and with a little hammer he would put the nail down.

Q He would take a piece of leather and hammer the leath

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er right on the sole, is that it, on theshoes I show you? A Yes

Q People's Exhibit No. 9? A Yes, sir.

Q Did you see him repair these shoes? A Yes, sir.

Q When did he do that? A During the time that he needed it, he fixed it.

Q Now, give me the last time, the date that you saw this shoe-last, People's Exhibit No. 12? A After he got married; when he left the house, he took with him the last and all that belonged to him.

Q And that was in your lodging house, was it, that you last saw the shoe-last? A Yes, sir.

Q Did you know his wife? A I saw him in the street once, and he introduced me to his wife.

Q But you told us, I believe, on your direct examination, that you never visited his home after his marriage? A Never.

Q And, of course, you know when the marriage took place, don't you? A I don't know.

Q Don't know the month? A No, sir.

Jal 78 Q Do you know the years? A This year.

Q Do you know whether it was three , or four, months, ago? A No, sir.

Q Was it last month? A No.

Q Two months ago? A Yes, sir.

Q Two months ago you saw her -- two months ago he got

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married? A Three or four months, something like that.

Q Was it during the present Summer? A Yes.

Q Do you remember the month? A The month of May.

Q The month of May? A Yes.

Q Have you talked with anybody about this case? A With no one. I am working all the time.

Q When did you first hear of the defendant's arrest? A The twelfth day of August, in the evening.

Q Of course, you knew what the charge was that was being made against him? A They were saying that his wife was missing, and after one or two days the wife was found murdered.

Q And you heard at that time that she was killed with a shoe-last, did you not? A No, sir.

Q When did you for the first time hear that there was a shoe last-that played an important part in this case? A Last night.

Q Last night, for the first time? A Yes.

Q And before last night you say you never discussed this case with a single person? A With no one.

Q Now, there is a general belief among your countrymen, is there not; that when a crime of this character is committed, that the dead cannot be restoredto life, and we might as well help the living; isn't that so?

MR. SINGERMAN: Objected to as entirely objectionable

THE COURT: Well, if you object to it I will sustain your objection.

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Q Did you visit the defendant at the toombs at any time?
A Never, never.

Q Of course, you never talked with Mrs. Larocca about the case? A With no one.

Q And you did not talk with this boy Tevere, who was witness here this morning? A No, sir.

Q Were you here this morning? A Yes, sir.

Q And were you here yesterday? A No, sir.

Q Were you here on Friday? A No, sir.

Q Were you outside in the hall until one o'clock, when recess was taken? A Yes.

Q Where did you go during the recess hour? A To take a cup of coffee.

Q With whom did you go to take a cup of coffee? A Alone.

Q Didn't you go with the inperpreter in this case?
A No, sir.

Q Didn't you go to Leonard Street with the interpreter in this case -- let him look at the interpreter? A Yes, I went with him.

Q And you did talk to him about this case and about the testimony which you were to give, didn't you? A No, sir.

Q Isn't it a fact that the other three witnesses, the woman who just testified, and this young man, Tevere, and the other witness who is still to be called, were with you also and with the interpreter?

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MR. SINGERMAN: Just one moment. We concede that.

MR. WASSERVOGEL: I don't want your concessions.

MR. SINGERMAN: I will state, further, that I stated to the District-Attorney, in his presence, I told my interpreter to keep the witnesses together and take them to lunch and bring them back here.

MR. WASSERVOGEL: Your Honor will recall this witness testified he had not spoken to a soul about this case prior to his coming on the stand. Now, I don't want his concession. I want the fact from the witness' lips.

MR. SINGERMAN: I think that is wrong, according to thebrecord, the witness said he did speak.

THE COURT: Well, that is a matter for the jury. They heard the evidence.

Q Were you in the coffee saloon with the other witnesses at the time the interpreter was with you? A Yes, yes.

MR. WASSERVOGEL: That is all.

RE-DIRECT EXAMINATION BY MR. SINGERMAN:

Pal 79 Q Now, you say that when Giordano got married you ceased living at the same place with him, or, rather, he ceased living at the same place where you were lodging? A Yes, I was not with him.

Q And that wasabout the month of April, was it not? A Yes at the eend of April.

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Q Now, in answering the District-Attorney's questions, do you remember the shoes when he was still residing at the same loding house with you, or after that time (Handing witness People's Exhibit No. 9)? A When he was living at the same place that I was living?

Q If it should develop that he purchased these shoes after he had left this rooming house, would you still say that it was the same shoes that have been patched by Giordano? A I could not say that.

Q Then, you might be mistaken in identifying these shoes as the particular shoes that he patched the toe of the sole? A I couldn't make no mistake, because when he bought the shoes he could buy new ones.

MR. SINGERMAN: That is all.

RE-CROSS-EXAMINATION BY MR. WASSERVOGEL:

Q Have you ever been convicted of a crime in Italy? A No, sir.

Q Did you ever see any of these articles in the possession of the defendant, these knives, hammer and different things? A I saw this one (indicating People's Exhibit No. 23); I saw this one (indicating People's Exhibit No. 25); I saw this one (indicating People's Exhibit No. 21).

MR. WASSERVOGEL: That is all.

MR. SINGERMAN: That is all.

G I O V A N N I R I Z Z O, called as a witness on behalf

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of the defendant, being first duly sworn and examined through the Official Interpreter, Diadato Villamena, testified as follows:

DIRECT EXAMINATION BY MR. SINGERMAN:

Q What is your name? A Giovanni Rizzo.

Q Where do you live? A I first lived at 124 and 126 Mott Street. I now live in New Delancey Street.

Q What do you do for a living? A Laborer.

Q You know the defendant? A Yes, sir.

Q How long have you known him? A From the time I was a young boy, we lived near each other.

Q Do you mean in Italy? A Yes.

Q And how many years have you known him in this city? A A year and a half.

Q Did you live at the same loding house that he did? A Yes, sir.

Q And where was that? A 124 and 126 Mott Street.

Q Did you ever see an iron shoe-last in the possession of the defendant? A Yes.

Q Can you recall when and where? A After the second month that I lived in that house.

Q Where did you see this shoe-last? A In the house.

Q How often did you see it? A Three or four times.

Q Now, I ask you to step to this table and ask you if you can identify the shoe-last that you can recall having seen before? A This is the shoe-last (indicating People's Exhibit No. 12).

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Q Now, is there anything about that shoe last which recalls to you that it was the identical shoe-last in the possession of the defendant during that time? What was it about the shoe last? A No. 44.

Q Anything else about the shoe-last? A That is all.

Q You just remember the letters on there, 44? A I remember the shoe-last, but the number I don't remember.

Q Then, what is it that recalls this shoe-last to your mind now that you see it as being the defendant's shoe-last? A I remember it because I took that shoe-last myself to mend shoes.

Q I will ask you to look at this shoe-last, People's Exhibit No. 2, and ask you if you ever saw that shoe-last before? A I don't know that; I don't recognizethat.

Q How do you draw the distinction between these two shoe-lasts, recalling People's Exhibit NO. 12 as the one that you saw in the defendant's possession, and not the other? A Gregorio's shoe-last is round.

Q And how is it different from the other shoe-last? A The difference is this: That the one which belonged to Gregorio is round, and the other one is pointing (witness indicates by putting his thumb and index finger almost together, separating them, and making the form of a "V").

Q Tell the jury what you mean by Gregorio Giordano's shoe last being round? Show us what you mean by that. Point it out on the shoe-last? A It is round, this way (witness in-

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dicates the bottom of the sole of the shoe-last).

Q I ask you to look at the other exhibit, and state whether that is not round? A No, this is not.

Q Is that the only means of your identification of this shoe-last? A That is the only way.

Q Did you ever see People's Exhibit No. 2, the other shoe-last, before today? A No I never saw it before.

Q How many times have you used this shoe-last, People's Exhibit No. 12? A Twice.

Q When did you see this shoe last? A I don't remember when.

Q Do you remember the month? A I don't remember. When I was living in the same house with him.

MR. SINGERMAN: That is all.

CROSS-EXAMINATION BY MR. WASSERVOGEL:

Q That was the only time? A Yes, when I was living with him.

Q And was that shortly after you came to this city? A About four months after.

Q When did you come here? A The first of September, 1912.

Q And you went to live with Mrs. Larocca, didn't you? A Yes, with Larocca.

Q And Gicrdano was also a lodger there? A Yes.

Q And you saw the shoe-last while you were living to-

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gether with him? A Yes.

Q And that was the only time? A Yes.

Q Now, did you talk with anybody about this case? A No.

Q When for the first time did you hear of the charge against this defendant? A I heard of it from the neighbors, not long ago.

Q And you knew that he was charged with having killed his wife with a shoe last, did you not? A No, sir.

Q When did you find that out for the first time? A Two days ago. I was in the country afterwards.

Q Have you visited the defendant in the Toombs at any time? A No, sir.

Q You say no one has talked to you about the case, and you have spoken to no one about the case; is that it? A To no one.

Q Were you here this morning? A Yes, sir, I was here this morning, yesterday also, just to see, just for my own pleasure.

Q And did you go out to lunch for your own pleasure, too? A Yes, sir.

Q With whom did you go? A With no one.

Q Today? A With no one.

Q Didn't you go out with the last witness, Lamandadola? A No, sir.

Q Did you go out with theinterpreter in this case? A No.

THE DEFENDANT'S INTERPRETER: He means me.

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THE WITNESS: ? Yes.

Q With him? A Yes, I did.

Q You remember him? A Yes.

BY MR. SINGERMAN:

Q He probably thought you meant the Official Interpreter?

THE OFFICIAL INTERPRETER: I pointed to your Interpreter.

Jul 8-1 Q And the three other witnesses were with you at the time, were they not? A No. I took a glass of liquor; that is all.

THE FIFTH JUROR: I should like to know how he knew the bottom of that last was round, Defendant's Exhibit No. 2, if he had not picked it up to find out.

MR. WASSERVOGEL: Ask him that question, please.

THE WITNESS: I know it, because I put some soles on shoes, see?

BY THE FIFTH JUROR:

Q But you did not look at People's Exhibit No. 2 to see whether it was not round? A I looked at one that was round, and the other one has got two points, and the one with two points I never saw before.

RE-DIRECT EXAMINATION BY MR. SINGERMAN:

Q Now, you have just stated that you recognized that Exhibit No. 2 was the last because it had sharp points; that was the last answer.

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MR. SINGERMAN: I ask the stenographer to read it:

(The stenographer reads last answer of witness, as follows: I looked at one that was round, and the other one has got two points, and the one with two points I never saw before.").

Q (Continuing) So that, you draw another point of difference. You say this shoe-last, Exhibit No. 2, having two points, you never saw before?

MR. WASSERVOGEL: He does not draw another point of difference. You are doing that now.

MR. SINGERMAN: He has stated that. He said "I never saw it before".

MR. WASSERVOGEL: I object to the question. Counsel is now testifying.

MR. SINGERMAN: I am taking his own language.

THE COURT: Get the facts from the witness.

Q What do you mean by "two points"? Take that shoe-last and show the jury what you mean by two points (handing witness People's Exhibit No. 2)? A Those two I mean, see? (Indicating bottom of the last). The other one is round, and this one has two points.

Q What do you mean by the other one, People's Exhibit No. 12, being round? A This is round, like here, you see (Witness indicates all around the last) This is a raising, up here, and one over here also (witness points to the front and

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last of the last), and this up here, you see, is round (pointing to the top of the last).

Q So that, the last that Giordano had in his possession, to your best recollection, resembled this particular last, and had a round projection, is that what you mean? A Yes.

Q Were you subpoenaed to come here? A No, sir.

Q Didn't you receive a paper from the court directing you to come here? A No, sir.

Q Were you subpoenaed by the prosecuting attorney to come here, by the State? A No, sir.

MR. SINGERMAN: That is all.

MR. WASSERVOGEL: Do you want this subpoena? It seems it is your own subpoena.

MR. SINGERMAN: This witness?

MR. WASSERVOGEL: No, the woman that was here this morning.

MR. SINGERMAN: That is all.

THE DEFENDANT RESTS

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REBUTTAL TESTIMONY.

JOSEPH DIGILIO, being recalled on behalf of the people, in rebuttal, testified as follows:-

DIRECT EXAMINATION BY MR. WASSERVOGEL:

Q Officer Digilio, two witnesses, Francesco [illegible]vere and a woman, Mrs. Larocca, testified that several days ago you took them up stairs in one of the rooms of the District Attorney's office. You did that, did you not? A Yes, sir.

Q And you took them up pursuant to my instructions? A Yes, sir.

Q You were investigating this case? A I was.

Q And you were trying to find people who had seen the defendant's shoe lasts? A Yes, sir.

Q Now, what room did you take them into? A Mr. Murphy'sroom.

Q And who was present at that time? A Mr. Breckenridge, Joe Davidson, Sergeant Willemse, and I think detective Hawkins; I aint sure about him.

Q And both of these witnesses have testified that the only shoe last which you showed them was this shoe last, people's exhibit No. 2, is that the fact? A No, sir.

Q What did you do with respect to the shoe lasts in this case? A I took the two shoe lasts out of a paper envelope, and I placed them on the table, and I asked both of them to identify the last if they could.

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Q And what did they say? A That Giordano had.

Q And what did they say? A They said that neither of them were not the lasts.

Q Neither one was? A None of them were the last.

Q And you now say, under oath, officer Digilio, that both of these lasts, People's Exhibit 2 and People's exhibit 12, were shown to both of these witnesses? A Yes, sir.

MR. WASSERVOGEL: Cross examine.

CROSS EXAMINATION BY MR. SINGERMAN:

Q Now, you didn't testify to that fact when you were on the stand before, officer?

MR. WASSERVOGEL: This isrebuttal, in answer to your case.

MR. SINGERMAN: Just let the witness answer.

MR. WASSERVOGEL: I object. This is in rebuttal to the defendant's case.

THE COURT: I sustain the objection, because, whether he did, or did not, it is in the recognizance of the jury, and that is unnecessary.

MR. SINGERMAN: I submit, on cross examination, we ought to be entitled to go into this, for the purpose of testing the credibility of the witness. I take an exception.

Q You say that you showed these two exhibits to these two witnesses? A I did.

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Q Now, you know that Exhibit No. 12 was found in the premises of the defendant, do you not? A I knew it was found, yes, in the premises of the defendant, yes.

Q Who told you that? A The officers did.

Q What officers? A Why, Detective Haggerty and Detective Hawkins.

Q And you know detective Hawkins was not with detective Haggerty on the 16th day of August, on the premises, do you not? A No, he was not. He came down later. It was detective Caputo and detective Haggerty that went to the house and told me that they had found a shoe last at the premises.

Q On what date, the 26th, or the 16th? A No, it was on the 16th, on the day he was arrested.

Q How did detective Hawkins come to tell you that this shoe last was found, when he himself was not there himself on the 16th? A He mentioned that fact.

MR. WASSERVOGEL: We are not going to re-open this case. This witness was put on the stand for one specific purpose, to have him rebut certain testimony given by the defendant's witnesses. I don't think it proper to go over the ground we covered in the last two or three days.

MR. SINGERMAN: I am covering that point.

THE COURT: Don't repeat any testimony; that is all. proceed.

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MR. SINGERMAN: I am not proceeding; I am simply cross examining on this point.

THE COURT: Don't repeat.

(Question read by stenographer, as follows: "How did detective Hawkins come to tell you that this shoe last was found, when he himself was not there on the 16th?")

MR. WASSERVOGEL: That is objectionable. How can this witness know the operations of the mind of another person?

MR. SINGERMAN: I withdraw that question.

Q When did you have a conversation with detective Hawkins about the shoe last? A Oh, I had several conversations with him. I worked with him on this case.

Q When was it you had a conversation in which he told you that this shoe last, exhibit No. 12, had been found upon the defendant's premises?

MR. WASSERVOGEL: Your Honor, I don't want to interrupt the court, and I don't want to interrupt these proceedings, but it does seem to me, if counsel is permitted to go over this ground again and again that we will not finish in two days more now. This witness was asked simply one question in rebuttal, as to whether certain shoe lasts had been shown to certain witnesses for the defense. Now, it seems to me the cross examina-

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tion should be limited to that and nothing else.

MR. SINGERMAN: And he stated this particular shoe last was found on the premises of the defendant, as detective Hawkins told him. Now, it developed that detective Hawkins did not find this shoe last, as he was not upon the premises upon the 16th, but on the 26th.

THE COURT: I don't see any warrant for ~~kkx~~ your asking that question.

MR. SINGERMAN: It is in line with the very point which is before your Honor now on the witness's testimony. It is simply a question of credibility.

THE COURT: He did not so testify, Mr. Wasservogel, did he?

MR. WASSERVOGEL: No, there is no claim that Hawkins found it, or anyone else found it.

THE COURT: I will sustain the objection.

MR. SINGERMAN: I take an exception.

Q On what day was that that you had these two witnesses examine these two exhibits? A I don't remember whether it was Thursday afternoon, or Friday morning. It was about the beginning of this case.

Q Your memory is a little ~~haxy~~ about the time?

A Well, that is my best recollection.

Q I think I recall, on your last examination, you said

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your memory was very good, and you could almost repeat word for word a certain conversation that took place between you and the defendant at different occasions before this trial; is that not so? A Yes, it is so.

Q And yet, remembering these various conversations word for word, you can't recall the exact day that you had these witnesses before Mr. Murphy for the examination--

MR. WASSERVOGEL: Not before Mr. Murphy.

Q (Continuing) In Mr. Murphy'soffice, which has been very recent; is that not true? A Very recent, but that is my best tecollection, either Thursday afternoon or Friday morning.

Q Now, will you explain to the jury why it was, knowing that exhibit No. 12 had been found upon the defendant's premises, practically admitted by this discovery that it was upon his premises, and no doubt had been owned or controlled by him, will you state to the jury why it was that it was necessary for you to exhibit both of these shoe lasts to the witnesses, instead of only the one that had been found at the place of the occurrence, the murder? A I was instructed to do so, to show these exhibits.

Q Who instructed you to show these two exhibits?

A The District Attorney's office.

Q Who was it in the District Attorney's office that instructed you to show both of these exhibits to these two

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witnesses at the same time? A Mr. Wasservogel just said I went up there on his instructions.

Q Not what he said just now, but who told you, and when? A Mr. Wasservogel told me to take the witnesses and see whether they could identify the shoe last.

Q Did he tell you to show both shoe lasts to these witnesses? A Both shoe lasts.

Q Both shoe lasta at the same time? A Yes, sir.

Q Quite sure of that? A Yes, sir.

Q Quite sure he told you that? A We took out the two, and put them on the table.

Q He used that very language, to show both these shoe lasts? A We took the two out.

Q Did he use that language? A I don't know whether he said both at the same time, or not, but I showed the two of them.

Q Did he tell you to show both, or did you volunteer to showboth? A I don't remember whether he did, or not.

Q He might not have told you to show both shoe lasts; is that true? A What was the purpose of going up stairs?

Q Ans were my question will you? A I don't remember.

Q So that, so far as this exhibition of the two shoe lasts is concerned, that might have been a voluntary act on your part, is that not so? A It was not a voluntary act on my part.

Q You have just testified that you are not sure

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whether Mr. Wasservogel requested you or directed you to show both of these shoe lasts to these witnesses at the same time, or not, didn't you? A They were taken up there for that purpose, and I did show the two shoe lasts.

Q Who told you to take them up for that purpose? A I have just said to the court who told me to.

MR. WASSERVOGEL: Tell him again.

THE WITNESS: Mr. Wasse rvogel told me to take some witnesses up.

Q If he told you to take them up for the purposes of showing them the shoes lasts, did he say both shoe lasts? A I don't remember that.

Q You won't be sure about that? A No, I don't remember it.

Q Supposing he did not tell you to show both shoe lasts, but to take the witnesses up for the purpose of identifying a shoe last, would you voluntarily have shown them both shoe lasts? A The two shoe lasts were up there to be shown, and I did place them on the table.

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

MR. WASSERVOGEL: Then the question is objected to, because it is argumentative.

THE COURT: Strike them both out.

MR. SINGERMAN: Your Honor has not heard the question.

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THE COURT: I don't need to. It is objected to and the answer is stricken out. You may repeat the question if you want.

MR. SINGERMAN: I ask the stenographer to please read the question again.

(Question read by stenographer as follows: "Q Supposing he did not tell you to show both the shoes lasts, but to take the witnesses up for the purpose of identifying a shoe last, would you voluntarily have shown them both shoe lasts"?)

MR. WASSERVOGEL: It does seem to me that is an argument.

THE COURT: Objection sustained.

MR. SINGERMAN: The witness has testified--

THE COURT: I sustain the objection. It is a hypothetical question, and unnecessary.

Q But you will positively swear that you don't recollect whether Mr. Wasserv ogel asked you to show these two shoe lasts, or not, will you? A I didn't say I would swear. I said I don't remember.

Q The n, you won't swear, will you? A No.

Q You won't say positively? A I would not swear. I says I don't remember whether he did or not.

Q You don't remember? A No.

Q But will you, or will you not, swear that he said that?

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A I says I don't remember.

Q You testified before that your memory was awfully good, you could repeat word for word the conversation between yourself and this defendant. You interpreted for Officer Hyman word for word. You took this stand and you testified you said word for word, question and answer, didn't you?

A Yes, sir.

Q Isn't that so? A I did.

Q And now you mean to confess to this jury that your memory has a sudden lapse, that you can't remember that simple direction that the District Attorney, Mr. Wasservogel, gave you only three days ago, or four days ago; isn't that it?

A At certain moments there are times when you can't think about these things.

Q Then, your memory is not so infallible as you would have this jury believe upon your last examination, is it?

A I don't know.

Q You know, as a matter of fact, that exhibit No. 12 had been found upon the premises of the defendant, don't you?

A Yes, I do ~~not~~ know it.

Q Now, what was your object in showing exhibit No. 12, which you knew was found upon the premises of the defendant, to these witnesses, together with this other exhibit, upon that day? A To be positive of the last, which was the last.

Q Well, why didn't you take simply exhibit No. 2

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and ask them is the last or not? Why didn't you ?

A I wanted to be mow sure and I showed them the two, so they could pick it out if they could identify it.

Q In other words, you wahed to act almost as the District Attorney seeking to discredit a witness for the defense; isn't that so? A No, sir, not the District Attorney.

Q And these people you assumed were going to be witnesss for the state, did you not, at the time you interviewed them? A I belived they were subpoenaed here for the people, yes.

Q Did you personally see the subpoenaes that were handed to them? A Yes, I did. I served them.

Q And you intended to dpend upon their testimony here on behalf of the prosecution, didn't you? A No, sir.

Q Why did you subpoena them for the State? A They were subpoenaed by the District Attorney's office. I don't know whether they were going to put them on or not.

Q Had you interviewed these witnesses?

A They were all interviewed by me and by Mr. Murphy.

Q Had you interviewed them before you brought them here? A Yes, some of them more than once.

Q And still, under the direction of the District Attorney, you brought them here after that interview, didn't you? A Yes.

Q Now, what wasthe purpose of bringing them here after the interview to see the District Attorney? A They were all

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here undr subpoenaes that morning, or that afternoon, already subpoenaed here to this court.

Q Then, it was because the District Attorney wanted to see these two witnesses that, notwithstanding the conversation you had, you brought them here for that purpose; is that so? A I believe he did want to see them, but the District Attorney was not there when I took those witnesses there.

Q He was not up stairs? A No, not in the room at the time.

Q I didn't ask you that. I asked you what you yourself had answered just before I sat down, if youstated it was because the District Attorney wated to interview these two witnesses that you brought them here to this Court? A That was before this trial began. There were several witnesses interviewed, and I subpoenaed them here before the District Attorney.

Q When was that? A It has been all the way through, from the 22nd of August.

Q We are talking about a specific time that you have testified that these witnesses were subpoenaed by the State? A For this trial, yes.

Q For this trial? A Yes, sir.

Q And you say that you interviewed them about Thursday or Friday of last week, and you were not sure whether it was Thursday or Friday; isn't that true? A Yes, I said

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Thursday afternoon or Friday I interviewed them and asked them if they knew the last, and they said they did not know, and I took them up stairs and showed them the two lasts; I put them on the table.

Q Who was present besides yourself and these two witnesses? A There was sargeant Willemse in Captain Breckenridge, District Attorney, Joe Davidson, and I think Frank Hawkins was there; I am not sure about Frank Hawkins.

Q Mr. Murphy was not there, was he? A No, sir.

Q Now, this was the time you are uncertain about whether it was Thursday or Friday, isn't it? A Yes, I don't remember.

Q Last week? A I don't remember.

Q Now, did you see Mr. Wasservogel immediately after they had been up stairs and examined these two lasts?
A He came in Court. I didn't see him after that, no, sir.

Q When did you see him next after that in Court?
A He was in Court; I saw him some time after that; I don't remember when it was; whether itwas --

Q Last week? A Yes, it was last week.

Q Did you tell him these witnesses could not identify the lasts? A I did.

Q And they were under subpoena still, were they?
A They had been under subpoena every day for court here, yes, sir.

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Q They were not put on the stand, were they?

A Yesterday was the only day -- no, to-day was the day that some of the witnesses were not subpoenaed.

Q They were not subpoenaed by the State? A No.

Q These same witnesses? A Some of them.

Q Were these two witnsses who were taken up stairs by you, were they subpoenaed by the State? A I don't think they were for today, no, sir.

Q Do you know the reason why they were not subpoenaed?

A I have no notice, no, sir.

MR. WASSERVOGEL: Ask me. Put me on the stand, and I will tell you.

MR. SINGERMAN: There is only one inference. I guess we can draw it.

MR. WASSERVOGEL: You may ask me if you want to.

MR. SINGERMAN: That is all.

RE DIRECT EXAMINATION BY MR. WASSERVOGEL:

Q You had these two witnesses up stairs in Mr. Murphy's room before the defendant testified? A Yes, sir.

Q And your object in bringint those two witnesses up stairs was to find out whether--

MR. SINGERMAN: One moment. I object to the form of the question.

MR. WASSERVOGEL: Question withdrawn.

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Q You did not know at that time, when you took them up stairs, whether the defendant would admit that the shoe last which was found in his ~~xxxx~~ home was his? A No, sir, I did not.

MR. SINGERMAN: I move theanswer be stri ken out. The question is argumentative.

THE COURT: The question is answered.

MR. SINGERMAN: I move the answer be stricken out.

THE COURT: No, Motion denied.

MR. SINGERMAN: I take an exception.

L U C I E N S. B R E C K E N R I D G E, called as a witness on behalf of the people, in rebuttal being first duly sworn, testified as follows:-

DIRECT EXAMINATION BY MR. WASSERVOGEL:

Q Your name is Lucien S. Breckenridge? A Yes, sir.

Q Mr. Breckenridge, you are an Assistant District Attorney in charge of the homicide bureau in the District Attorney's office? A I am.

Q And you have been in charge of that Bureau for some time, have you not? A Yes, sir.

Q Do you recall several days ago seeing officer Digilio in your office? A Yes.

Q And your office and Mr. Murphy's are in the same room are they not? A They are, yes.

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Q Was Mr. Murphy present on that occasion? A He was not.

Q Did you see the two witnesses, a Mrs. Larocca and a young man named Tevere, both of whom were on the stand, when you were called in to be identified? A I did, yes, sir.

Q Were they in the room at that time? A They were in the room.

Q And do you recall who else was there? A There was officer Willemse, Sargeant Willemse, of the Twenty-first precinct; officer Digilio; Joseph Davidson, the secretary of the homicide bureau, and officer Hawkins came in. I don't think he was there during most of the time the witnesses were in there; he came in and went out again.

Q Do you recall when that was? Which day?

A I think it was Friday. I am not positive. It was about the time that this case was beginning.

Q And on that occasion did you see either of these shoe lasts, people's exhibit No. 2 and people's exhibit No. 12?

A I saw both of them.

Q And where were they? A They were on the table which runs across the room, near Mr.Murphy's desk; that is, the desk nearer the door.

Q And how near to that table were thetwo witnesses, the woman Larocca and the young man, Tevere?

A At one time or another they were against the table.

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Q And Digilio, was he right there too? A He was standing facing the door, along the length of the table. The witnesses were at the end of the table.

Q He spoke to these people in the Italian language? A Yes, sir.

Q Which, of course, you did not understand? A No, I did not.

Q But you did know these two shoe lasts were the subject of the conversation? A Oh, yes.

MR. WASSERVOGEL: Cross examine.

CROSS EXAMINATION BY MR. SINGERMAN:

Q Were you seated at your desk on this occasion, Mr. Breckenridge? A I was seated at my desk, facing the table, which runs perpendicularly to my desk.

Q When you refer to the table at which officer Digilio and the witnesses stood at this time, do you mean the table nearest the door, the entrance tomyour office? A Nearest the door, yes, that is it.

Q There are two desks? A There are two desks.

Q A table and a desk, rather, that are near the door of your office? A Yes, Mr. Murphy's desk is nearer to the door and is against the westerly wall of the office. The table runs across the office.

Q And is your desk the one to the westerly wall, in the rear of theoffice? A They are both against the westerly

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wall, Mine is at the south end of the office.

Q About how many feet away is your desk from this particular table where the conversation took place?

A I should say about from where I am to the counsel's table, where the defendant's counsel sits, maybe twelve-five or fifteen feet, not more than that.

Q And what time of day was this? A This was in the morning.

Q Had you any persons to interview at that time, at your desk? A No, I did not, except sergeant Willemse; I was talking to him about a case on which he was working.

Q An entirely different case from this? A Oh, yes.

Q And at that time you observed these two witnesses twelve or fourteen feet away, standing at that table?

A Yes, one was sitting down, and one was standing near me, when my attention was first attracted to them.

Q Were they facing you, or was your back towards them?

A I was seated; their side faces were towards me; they were facing west, and I was looking north.

Q They were facing west, and you were looking north?

A Yes.

Q You were not particularly paying any attention to any conversation there at the time, were you? A I could not. It was in Italian.

Q You were busily engaged with this officer? A Yes.

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MR. WASSERVOGEL: He said he did not understand it; that it was in Italian. That was the reason.

Q You don't know for that reason, what officer Digilio said to these witnesses, do you? A No, I do not; it was said in Italian; I don't understand Italian.

Q You don't know whether he called their attention to these shoe lasts, or anything else, as far as you know? A He did call their attention to the shoe lasts.

Q In what language? A In Italian. All of his conversation was in Italian.

Q Do you understand Italian? A I do not.

Q How do you know he called their attention to the shoe lasts? A Because he handed it to one ofthem, and they examined it.

Q He had it in his hand? A He had it in his hand.

Q At the time he was speaking to these witnesses? A The witness had it in his hand. It was passed from offier Digilio to one of the witnesses.

Q And that was one shoe last? A Yes, the other one was on the table.

Q Now, can you remember which one of these shoe lasts was picked up off the table and handed to the witness? A No, I cannot. One of them was running along the length of the table, in very much the position the two are now. The witness took one of them in his hand from officer Digilio, and handed it back to Digilio, who placed it back on the table, and

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then he started to shake his head about the last, doing this way with his hand (witness illustrates by moving right hand, and ~~xx~~ arm outstretched, in front of face)

Q. Was that all the conversation? A No, there was more conversation.

Q Did they walk out after that? A After that they walked out.

Q They were conversing about the shoe last? A They were conversing about the shoe lasts.

Q I mean, the one the witness held in his hand? A It was some time after that they walked out, not immediately.

Q But it was after that conversation ~~xxxxxxxx~~ and after he held the shoe last in his hand, after that they walked out of the room? A Yes, sir.

MR. SINGERMAN: That is all.

MR. WASSERVOGEL: That is all.

J O S E P H D A V I D S O N, called as a witness on behalf of the people, in rebuttal, being first duly sworn, testified as follows:-

DIRECT EXAMINATION BY MR. WASSERVOGEL:

Q You are a process server connected with the District Attorney's office? A Yes, sir.

Q And now employed as a clerk in the homicide bureau? A Yes, sir.

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Q And you have been for some time? A Yes sir.

Q Where is your desk? A To the right as you enter the office of Mr. Murphy and Mr. Breckenridge.

Q Your desk is in the same room with Mr. Murphy's and Mr. Breckenridge's? A Yes, sir.

Q That room is known asthe room of the homicide bureau? A Yes, sir.

Q Now, do you recall officer Digilio coming into the homicide bureau's room several days ago with two witnesses who were on the witness stand this morning, and before whom you were identified? A Yes, sir.

Q The witness, Mrs. Larocca, and a youg man named Tevere? A Yes, sir. Well, I remember there were three witnesses brought into the room?

Q Three were brought in? A Three.

Q Who else was present at that time? A Well, Mr. Breckenridge was there, I think Sergeant Willemese was there, and at times officer Hawkins was in the office.

Q Who did the talking to these two witnesses?

A Digilio.

Q And he spoke in the Italian language? A The Italian language.

Q Which, of course, you do not understand? A No sir.

Q Do you know what the subject of the conversation was? A I could surmise what it was about.

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Q Did you on that occasion see either of these shoe lasts, people's exhibit No. 2, or people's exhibit No. 12? A I couldn't say it was those identical two, but I ~~think~~ know there were two lasts shown.

Q There were tso lasts? A Yes, sir.

Q And where were the shoe lasts? A Well, they were takn out of bags. One was left in the bag when the first witness came in. First one was shown, and after the first one was shown the second one was taken out of the envelope, and shown to the witness.

Q Will you testify now that both of these shoe lasts were shown to both of the witnesses? A Oh, yes, sure.

Q No question about that? A No question about it.

Q But one was shown first, and then the other? A Yes, sir.

Q Both were shown? A Yes, sir.

Q And, of course, you don't know what replies these witnesses made to Digilio? A No.

MR. WASSERVOGEL: Cross examine.

CROSS EXAMINATION BY MR. SINGERMAN:

Q Where were theseshoe lasts before they were unwrapped and put on the table? A They were not wrapped. They were in an envelope which you could open.

Q Both of them were in one envelope? A I don't think so. I think they were inseparate envelopes. I am not sure,

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though.

Q Then, you dn't know whether they were both taken out of the one envelope at the same time, or separately taken out of two envelopes, do you? A No, not positive.

Q Youare quite sure there were three witnesses brought in there at the time? A Yes, not at one time. The three were not brought in together.

Q But were they all three in there simultaneously after they came in at different times? A Yes, I think so. If I remember correctly, first there was one witness brought in. Then there was another one brought in, and then there was two brought in together.

Q Then, there were four? A No, three. There was only three witnesses the one that was brought in with the first one was the same that was brought in afterwards.

Q Did you hear the testimony of officer Digilio?

A No, sir, I did not.

Q And ~~xfkxr~~ if he testified there were only two witnesses that he took up to Mr. Murphy's room on that occasion, he was lying, wasn't he? A Oh no, I wouldn't say that, no, no.

Q He might be dorrect in his statement, and you might be wrong?

MR. WASSERVOGEL: If you will refer to the record, you will find he did not say that in those words. He said he took these two witnesses up there.

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MR. SINGERMAN: He did not speak about any others that I can recall, but the two.

MR. WASSERVOGEL: Those are the only two I asked him about.

Q In other words, you are quite sure there were three witnesses in the room? A Yes.

Q Do you know the names of the other witnesses? A I don't know the names of any of them.

Q Did you hear the testimony of District Attorney Breckenridge? A No, sir, I did not.

Q He testified that officers Digilio picked up one shoe last from the table and showed it to the witnesses, and it was put into the hands of these witnesses, who replaced it upon the table after examining it. Is that correct? A Do you mean the three witnesses?

Q I mean the witnesses who accompanied officer Digilio on this occasion. He claims there were two that he spoke of? A Now, I don't know that the two of them took it in their hands, but I do distinctly remember that one of the three witnesses had it in his hand.

Q Had a shoe last? A A shoe last, yes.

Q Do you know whether both shoe lasts went into the hands of these witnesses? A That I couldn't say.

Q You are not sure about that? A No, that I couldn't say.

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Q But you are positive that the officer picked up one shoe last, aren't you? A I know he picked up two of them, but I don't know whether the witnesses had the two of them in their hands.

Q You are sure he picked up two shoe lasts? A Oh, yes, I am sure about that.

Q Then, if officer Digilio picked up two shoe lasts, you are quite sure that he replaced them upon the table, aren't you? A Oh, yes, sure.

Q He did not wrap them up again? A Or he might have placed them in an envelope.

Q You don't know that? A No.

Q You wouldn't swear he did not? A No.

Q How close were you seated to this table? A I was right next to the table.

Q How many feet away?

MR. WASSERVOGEL: Take the chair and put it in the position your chair was with respect to this table.

THE WITNESS: About there, and they were over here (Illustrating)

MR. WASSERVOGEL: Now, place the shoe lasts in the position they were when you saw them on the table?

MR. SINGERMAN: And about the distance from the chair.

THE WITNESS: I would have to bring that chair around here (Indicating).

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MR. WASSERVOGEL: Use this chair. Now, place the shoe lasts where you saw them.

THE WITNESS: One was about over here, and one was about over here (indicating with lasts.) Afterwards the shoe lasts were removed from one place to another, of course.

Q Now, which shoe last did that officer pick up and put in the hands of the witness? A That I couldn't tell you, because I didn't look at the shoe lasts.

Q Were you doing something at the time, working upon some matter? A No, I was sitting at the desk there listening to Digilio and the witnesses.

Q You were not engaged otherwise? A No, I could have been, but I was not, no.

Q How long had you been sitting at this desk before the officer came in with these witnesses? A It might have been half an hour; it might have been an hour; it might have been only fifteen minutes.

Q It might have been two hours? A It might have been two hours.

Q You are not positive? A No.

Q You can't recall? A No.

Q And yet you can distinctly recall that the officer picked up both of these large lasts from the table and replaced them upon the table? A Oh, yes.

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Q Isthat true? A Yes, or in the envelope.

Q Or in the envelope? A Yes.

Q And yet you can't remember which one of the shoe lasts he put in the hands of the witness, can you?

A No, I couldn't do it.

MR. SINGERMAN: That is all.

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C O R N E L I U S W. W I L L E M S E, police officer, attached to the Twenty-First Precinct, called as a witness on behalf of the People, in rebuttal, being first duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. WASSERVOGEL:

Q What is your full name? A Cornelius W. Willemse.

Q How long have you been attached to the Police Department? A Thirteen years and a half.

Q You are now assigned or detailed to the District-Attorney's office, are you? A Yes, sir.

Q Were you present in Mr. Murphy's room several days agin, when Officer Digilio came in there with some people? A Yes, sir.

Q You don't understand the Italian Language, do you? A No, I do not.

Q Do you recall who was present at the time? A Mr. Breckenridge and I were talking together, Joe Davidson, Digilio and Detective Hawkins, and first came in an Italian man, and then camein an Italian woman and a man, a man with bushy hair.

Q Three people altogether? A Three people altogether; one came in first, and then two came in afterwards.

Q Did you on that occasion see either of the shoe-lasts I show you, People's Exhibit No. 2, or People's Exhibit No. 12 (exhibiting same to witness)? A Yes, both of them.

Q And where were they when you saw them? A They were

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on the table.

Q On a table? A Yes, sir.

Q And how far were you from that table? A About as far as from here to there (indicating). The woman was sitting alongside of me, this woman with the brown jacket.

MR. WASSERVOGEL: Cross-examine.

CROSS-EXAMINATION BY MR. SINGERMAN:

Q What was your object in going to Mr. Murphy's room on that day?

MR. WASSERVOGEL: Objected to. There were other cases which were being investigated.

THE COURT: The objection is sustained.

Q Did you go purposely on this particular case to Mr. Murphy's room on that day? A I know nothing about this case. I am working on different cases entirely.

Q Do you undersand Italian? A No, sir.

Q And how close did you stand to Officer Digilio? A Officer Digilio was there, thewoman was here, the table is there; and the two objects were there on the table (indicating), about as far away from me now as thy are now.

Q Did you understand what was going on at thetime between these people? A No, I only looked at the exhibits;I was curious

Q Did you see Officer Digilio move any of these exhibits, take them off he table?AAfter he had them in his hands and showed them around and the man with the bushy hair shook his head.

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Q What did he have in his hand? A These two things.

Q These two shoe-lasts? A Yes, sir.

Q Did he offer them to the witnesses to examine? A They were looking at them.

Q Did they have them in their hands? A I believe they had.

Q You belive they had? A Yes, I am not sure now; I couldn't testify to that; I am not positive now; I couldn't testify to that, because I was looking more at the exhibits than at the witnesses.

Q Was there anything else on the table at the time, any of the exhibits, for instance, in addition to the shoe-lasts? A I don't think so.

Q Did you see this awl at the time? A No.

Q People's Exhibit No. 22? A No.

Q Didn't you see any of these instruments? A No, I didn't see those things there.

Q Quite sure you did not? A Quite sure. There was a bag there; there was a bundle there, and I don't know what all was on the table.

Q And yet you don't remember what was done with these two exhibits, the shoe lasts, you don't remember what was done with them on that occasion? A Not exactly. They took them out of envelopes and had them there, and I looked at these things, and then these witnesses came in. I was talking to Mr. Breckenridge about a different case entirely; I was all

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foeeign to me.

Q So, you were busy, really, on another matter? A Yes, sir.

Q And you did not give this any particular attention, because you were not interested? A No, sir, simply I looked at the lasts, and that is all.

Q So far as you know, some of these other instruments here on the table might have been placed on the table by the person who was unpacking the shoe-lasts? A They might have been there.

Q You won't swear they were not there? A No, sir, I will not.

MR. SINGERMAN: That is all.

V I T O B O N T O R N O, called as a witness on behalf of the People, in rebuttal, being first duly sworn and examined through the Official Interpreter, Diadato Villamena, testified as follows:

DIRECT EXAMINATION BY MR. WASSERVOGEL:

Q What is your name? A Vito Bontorno.

Q Where do you live? A Chicago.

Q And you have come on here for this trial from Chicago? A Yes, sir.

Q What day did you come? A I arrived here Sunday night.

Q Sunday night of this week? A Yes.

Q Did you, after the 10th of August, of the present year, receive any letters from your sister, Salvatora Bontorno?

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A No, sir.

Q How long prior to August 10th was it that you received the last letter from her? A About twenty days before.

Q And the Salvatora Bontorno that you are now speaking of was the wife of the defendant? A Yes, sir.

MR. WASSERVOGEL Cross-examine.

CROSS-EXAMINATION BY MR. SINGERMAN:

Q Has there been any change in your street address in Chicago during the past three months, or two months? A I moved two months ago.

Q Do you remember the exact date when you moved? A (No answer).

Q Was it in August? A The month of September.

Q Do you recall the exact date in September when you moved? A I believe the first of the month.

Q When did you last write your sister, the deceased in this case? A I wrote to my sister on the 12th day of August

Q Did you tell her in that letter that you expected to remove from where you were residing? A No, sir.

MR. SINGERMAN: That is all.

A R C H I E H A M I L L called as a witness on behalf of the People, in rebuttal, being first duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. WASSERVOGEL:

Q You are a stenographer, are you not? A Yes, sir.

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Q And in the month of August were you attached to the District-Attorney's office? A Yes, sir.

Q On the 10th of August, in particular? A Yes, sir.

Q And do you know this defendant, Gregorio Giordino? Have you ever seen him before? A Yes, sir.

Q Were you present at a time when a statement of his was taken in the District Attorney's office? A Not in the District-Attorney's office.

Q Where was it? A In the prison ward of Bellevue Hospital.

Q Who was present on that occasion? A Mr. Murphy, Joseph Digilio, the defendant and myself.

Q And who asked the questions? A Mr. Murphy.

Q In the English language? A Yes, sir.

Q Which were translated into Italian by whom? A By Detective Joseph Digilio.

Q And after the answers were given by the defendant in the Italian language, were the answers translated again into the English language? A Yes, sir.

Q And as the answers were translated into the English language, did you take them down in shorthand? A I did, yes.

Q Have you your original note-book here? A Yes, sir.

Q Look at it, please. Have you a transcript of it? A yes, I have a copy.

Q You have a copy which you transcribed yourself?

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A Yes, sir.

Q And you furnished the District-Attorney's office with copies, of course? A Yes, sir.

MR. SINGERMAN: I object to this, on the ground there is no evidence here showing that the translation made by the interpreter was a corect translation from the language used by the defendant.

MR. WASSERVOGEL: Officer DigiEo testified that he translated from the Itaian into the English, and so forth. I think that covers it.

MR. SINGERMAN: I contend there is no evidence here to show it was a correct translation.

THE COURT: Did he say he translated correctly?

MR. WASSERVOGEL: Yes, sir.that question was asked him on cross-examination.

THE COURT: Very well.

MR. SINGERMAN: I take an exception.

Q Refer to page three of the transcript?

A Transcript?

Q Yes,

MR. WASSERVOGEL: Unless you want him to refer to his original notes.

MR. SINGERMAN: I object, and take my exception.

THE COURT: Mr. Wasservogel, I don't know that it is wise to go into this. There is a question of law as to the propriety of it. Your interpreter was not sworn. It

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is true he takes the stand now and says he interpreted correctly.

MR. WASSERVOGEL: If there is any question about it, the witness is withdrawn.

THE COURT: I think that is the danger of it. I think perhaps it is wise not to go into it.

MR. WASSERVOGEL: That is all. Now, when the defendant was on the stand, he referred to some woman whom he said had met him on thenight of the 11th of August, and had told him that she had seen his wife that day, and he stated that she was some relative of the deceased. We have gone over the family-tree of the deceased, and we have been able to find one woman; I don't know whether she is the woman or not. I will have to call her.

THE COURT: You can call her and ask the defendant whether that is the woman, if you wish.

MR. WASSERVOGEL: Yes, that is as far as we can go.

(Litria Mezzarino stands at the bar of the court).

MR. WASSERVOGEL: (To the defendant) Do you recognize that woman?

THE DEFENDANT: (To the official interpreter) Yes, I know she has got a brother here.

MR. WASSERVOGEL: Is that the woman you referred to in your testimony?

THE DEFENDANT: (Through the Official Interpreter)

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A yes, sir, that is the woman.

L I T R I A M E Z Z A R I N O, called as a witness on behalf of the people, in rebuttal, being first duly sworn and examined through the Official Interpreter, Diadato Villamena, testified as follows:

DIRECT EXAMINATION BY MR. WASSERVOGEL:

Q What is your name? A Litria Mezzarino.

Q Where do you live? A 58 Elizabeth Street.

Q Did you know Salvatora Giordano? A Yes/ I know her.

Q Was she related to you in any way? A No, sir.

Q Did you know this defendant? A No, I don't know him.

Q Did you ever see him? A Never.

Q Did you ever tell the defendant -- withdrawn. Did you know that the woman, Salvatora Giordano, had disappeared, and had subsequently been found dead? A Yes, I heard it.

Q Did you, on the evening of August 11th of the present year or at any other time, see this defendant and tell him, "I saw your wife this morning?" A No, sir, I didn't see him. He must say that before me.

MR. WASSERVOGEL: That is all.

CROSS-EXAMINATION BY MR. SINGERMAN:

Q Do you know the brother-in-law of the defendant, Bontorno? A Yes, I know him.

Q Are you related to Bontorno? A No, sir.

Q Do you know Mrs. Bontorno, his wife? A Yes, sir.

Q Are you related to her in any way? A No, sir.

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Q How long have you known Mr. Bontorno, or Mrs. Bontorno?

A I ammonly four months in this country.

Q Did you know them before you came to this country?

A No, sir.

Q Did you know the defendant or his wife before you came to this country? A No, sir, no, sir.

Q Are you married? A That is the first time I saw him. If I would see him once more I would say the second time.

Q Are you married? A No, sir, I am single.

Q Where do you live? A With my sister-in-law.

Q Where? A 58 Elizabeth Street.

Q Have you known Mrs. Bontorno intimately, in a social way? A I got acquainted with Mrs. Bontorno here in America through my sister-in-law. In Italy I didn't know them.

Q And when was that that you got acquainted with them?

A When I came from Italy.

Q Is your sister-in-law related to Mrs. Bontorno, or Bontorno, by marriage? A Cousins.

Q Your sister-in-law is a cousin of Mrs. Bontorno; is that it? A Yes, sir.

Q And you are, naturaly, living with your sister-in-law, very friendly with the relatives of your sister-in-law, Mrs. Bontorno, and her husband, are you not? A With my brother, with his sister, yes, with all of them.

Q Have you, since the tenth day of June, gone with your

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sister-in-law to the home of Bontorno and his wife and discussed on any day since August 10th? A I never went in their house.

Q Did they ever come to the house of your sister-in-law and discuss the case? A No, no, no; no, sir.

Q Has your sister-in-law, with whom you live, discussed this case with you since the trial began, or before? A No, sir; we didn't talk about it.

Q Didn't you talk with them about the fact that you were subpoenaed to come here and testify in this case? A Last evening, yes, I talked with my sister-in-law. I didn't know I was coming over here. Last night, when I come back from work, my sister-in-law told me therewwas a subpoena there for me, that I had to come to court this morning, and she says to me that this man, here, referring to the defendant, did say that you met his wife in the morning and you told him that you had met his wife in the morning.

Q What did you say to her? A I said, "Sure, I am ready to go to the court and tell the truth; I didn't do nothing wrong", I said.

Q Will you swear that she did not tell you that you must n not say that you met him and told him that you saw his wife in the morning of the 11th? A I said to my sister-in-law -- when my sister-in-law told me that I was called here in the court, and this man says I told him I saw his wife, that I

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tapped him on the shoulder , I says, "no, sir, it is not so. On Saturday we worked only half a day. When I was coming hme I was tapped on the shoulder myself by the wife of this defendant, and she says to me, 'How do you do, Litria.'"

Q You say it was this dfendant's wife who tapped you on the shoulder on this Saturday, the 9th day of August? A Yes, the 9th of August.

Q Did you not testify here that you did not know the defendant or his wife? A I know the wife, yes, I know the wife of the defendant, I know the wife of this defendant through my sister-in-law; I didn't know her in Italy. I know her here, in this country, but I never knew the defendant.

Q How long did you know this defendant's wife in this country? A I know her because she was working in the same factory where I was working.

Q Was that after she was married to the defendant, or before? A Yes, I was not here when she was single; I was in Italy; when I came here she was married already.

Q Did you visit the defendant's wife at any time while you were working in this same factory? A No, sir.

Q Now, did the defendant's wife meet you frrquently in the home of Bonforno? A No, sir, I was going alone.

Q Now, you have stated that your sister-in-law told you last night that you would be caled upon to testify in regard to this conversation, that the defendant stated he had with

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you on the night of August 11th. Did she tell you who told her about this testimony here? A No, sir, she didn't tell me nothing.

Q And you didn't ask her, did you? A No, sir.

Q And yet your sister-in-law had never mentioned anything about this case to you before, you say? A No, sir, I didn't take no interest in the case, and I never spoke about it.

THE COURT: Is that all?

MR. SINGERMAN: I have several more questions bearing upon this point.

MR. WASSERVOGEL: This is the last witness.

THE COURT: The last witness, but not the last of the examination.

MR. SINGERMAN: I think it is very important that all the truth come out in respect to this witness.

THE COURT: You can't suggest that I have kept it out.

MR. SINGERMAN: I mean no reflection in the slightest. Your Honor has been eminently fair.

THE COURT: Have you any more testimony?

MR. SINGERMAN: I have not.

THE COURT: How many more questions do you want to ask?

MR. SINGERMAN: I think I may have about ten or twelve, perhaps, before I get through.

THE COURT: Well, that will take some time. These

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gentlemen have been serving there all day, and they have odds and ends of their business to attend to. If they can get away at four o'clock they can accomplish something. I am rather strict about court hours, because it is the most satisfaction to the greatest number. We will have to go on tomorrow, gentlemen. I take it this examination wil be quickly concluded, and then the summation and charge will follow, so the case will be given you tomorrow morning.

MR. WASSERVOGEL: I don't want to keep the jurors here, I don't want to keep the Court here, but I think the counsel can expedite matters if he concludes now.

THE COURT: Now you gentlemen will please arrange your summing up, with the understanding that neither side shall have more than one hour. That is in accordance with your suggestion made yesterday.

MR. SINGERMAN: I did not think your Honor ought to limit us.

THE COURT: I am not limiting you. You said you would want one hour, and I have planned accordingly to give you an hour, the time you ask.

MR. SINGERMAN: I think I possibly can finish in one hour.

THE COURT: Now, you have got your pattern, one hour. Now, cut your cloth accordingly.

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MR. SINGERMAN: Your Honor will remember, new wit- 474
nesses have come on the stand since then.

THE COURT: (To the jury) Do not talk about this case, nor permit anyone to talk to you about it, nor form nor express any opinion thereon, until the case shall finally be submitted to you. The Court will take a recess until tomorrow morning at 10:30.

(The Court accordingly tok a recess until tomorrow, Wednesday, October 22nd, 1913, at 10:30 A.M.).

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THE PEOPLE, ETC., VS GREGORIO GIORDANO.

New York, Wednesday, October 22nd, 1913.

(TRIAL CONTINUED.)

(The witness Litra Mezzarino does not respond to a call)

MR. WASSERVOGEL: Pefhaps we can concede what Mr. Singerman wants to ask this witness.

MR. SINGERMAN: If you will concede that this occurrence actually happened, that she tapped the deceased on the shoulder, this witness did, at the time we allege he tapped her on the shoulder.

MR. WASSERVOGEL: She has already been questioned regarding that very matter, your Honor, and she says she did not. That is in the record already. I have that testimony here.

MR. SINGERMAN: Well, there are several other points in connection with it.

LITRIA MEZZARINO, being recalled, testified, through the official interpreter, Diadato Villamena, as follows:

CROSS EXAMINATION CONTINUED BY MR. SINGERMAN:

Q What time of day was it that Mrs. Diordano tapped you on the shoulder? A About half past twelve.

Q Were you working during this week that you met her? A Yes.

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Q Why were you not working on this day at half past twelve? A Because it was Saturday, and the boss would not let us off a half a day and pay us for the full day.

Q Where did you meet her? A In the same block, on the street that we generally took to go home.

Q How far was that from your place of work? A About a block.

Q Do you know the street? A No sir; Canal Street; I was going to work, that is all.

Q Had you walked out of the place of work with Mrs. Giordano on this day? A No sir. I was ahead of her, and she was behind me, and after I left her and I went home alone

Q Did you see her in the factory where you worked during this day? A No sir.

Q What kind of a place is it that you work at? A A rag shop.

Q Is it one large room? A I was in one part of the building, and she was in the other part of the building. To go to see her I must go purposely to see her.

Q How many women work at this place? A Four.

Q Four women? A Yes.

Q And what do the four women do? A Assorting rags.

Q And you are one of the four are you not? A Yes.

Q Now, do you take the rags out of the bags, or do you assort the rags after they are taken out? A The rags are put on a screen; from the screen we select the rags and put

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them in a basket, and from the basket we put them away.

Q And do these four women, yourself included go to the same screen to select these rags? A Yes, two on one side and two on the other side of the screen. We face each other.

Q And was Mrs. Giordano facing you and working at this screen on that day? A I told you that she was on the other side of the building, I had to go especially to see her, if I wanted to see her.

Q Then, you mean to say she did not go to the screen with you and the other two women on this day to select the rags which were to be separated? A She did not work on the screen where I worked. There was only four there. There was only four that worked on that screen. She did not work where I was working.

Q Then, you mean to say there are four girls working at this screen outside or exclusive of Mrs. Giordano? A Yes, she was not there.

Q Then, you wish to tell the jury that there are five women altogether, including Mrs. Giordano, that worked at this rag shop on that day? A Four, I say.

Q How large a place is this? A A very large room. If you want to come along with me, I will show you the place I was working and the place she was working.

Q Now, is it as wide as this room? A Not so wide, but longer than this room.

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Q And what is the name of the man that runs this rag shop? A I don't remember the name of the owner of the shop. Why didn't you ask me yesterday? The boss was here, and I would ask him.

Q Do you know the number of the place where you worked? A No sir, I am not acquainted with the number of the street. I am not four years in this country. I am only four months.

Q What time did you leave this place of work on Saturda August 9th? A At half past twelve.

Q Now, during the entire morning, from the moment that you went to work, you could see Mrs. Giordano in the building could you not? A No sir, I could not see her.

Q Was there anything to obstruct your view from looking at her as much as looking at the other two women who were working there? A I couldn't see her, because I was on the other side . In order to see her, I had to go there purposely to see her.

Q Was there any wall or anything that kept you from looking from one end of the room to the other, the same as you would look from where you sit to the end of this Court Room? A Nothing, nothing, only there was a bale of rags piled up in front.

Q Was that pile of rags stretched across the entire width of the room? A Yes, across the room.

Q Could you get by it? Was there any passage way? A Yes, sure, if you want to pass you could go around the side there and pass around. Some times when the boss was not there

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I generally take a little walk, passing over, or looking at each other, but we wouldn't talk to each other.

Q Did you have occasion to go over, or not on this day.

MR. WASSERVOGEL: Now, it does seem to me, your Honor, we have gone far enough on this matter.

THE COURT: Objection sustained.

Q Now, you say when you left this place that the deceased tapped you on the shoulder?

MR. WASSERVOGEL: We have had that several times.

THE COURT: She said it once, don't repeat it.

Q What did she say to you when she tapped you on the shoulder.

THE COURT: How much longer do you wish to continue?

MR. SINGERMAN: I have a few questions here. It may take me ten minutes. It depends on how the witness answers. If she is going to be impertinent, as she was yesterday, it may take longer.

THE COURT: Please don't get into an altercation. I am asking for information.

MR. SINGERMAN: I don't know, your Honor. It may take me longer.

THE COURT: Now, proceed, please, as rapidly as you can.

Q Did you have any conversation with her when she tapped you on the shoulder? A No sir, I only said to her, "You

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scared me". I left her and I went away.

Q You had no further interview whatsoever on any question? A No sir, no conversation.

Q In which direction did she go? A I couldn't say that. I was not after her. I was ahead of her.

Q Do you live in the same neighborhood with Giordano? A No sir, two blocks away.

Q Did you tell anybody of this occurrence, that the deceased tapped you on the shoulder? A I told that to no one.

Q You are quite sure of that? A Yes sir, I swear. I didn't speak to any one, because when I got here from Italy I received instructions from my brother that in America I should talk to no one.

Q Which brother do you refer to? A I got only one brother.

Q Here in the City? A I got two brothers. One works in a village, and another is here, Salvatore.

Q Do you know how Giordano got this information, if you told no one that his deceased wife tapped you on the shoulder

MR. WASSELVOGEL: That question is objected to, because there is no proof in this case that he received any such information.

MR. SINGERMAN: He testified to it himself.

MR. WASSERVOGEL: That is not a question to ask of this witness. She did not tell him.

THE COURT: The objection is sustained.

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MR. SINGERMAN: I take an exception.

Q If the defendant testified that he learned from you that his deceased wife tapped you on the shoulder, and you told no one that the deceased tapped you on the shoulder, do you know how he got this information?

MR. WASSERVOGEL: The same objection.

THE COURT: The objection is sustained.

MR. SINGERMAN: I take an exception.

Q Now, you testified yesterday that on Monday night, October 20th, you talked about the testimony in reference to that incident of being tapped on the shoulder that you were to give in this court room. Will you state to this jury who began the conversation on that point, your sister-in-law or yourself? A My sister-in-law started the conversation. In going from work my sister-in-law told me, "Tomorrow you must go to court". I says to her "What for?" She says, "That man there said you tapped him on the shoulder and you talked to him." I says to my sister-in-law, "I?" I never saw him."

Q Did you ask your sister-in-law who told her about that testimony that had been given here? A No sir, no sir, nothing I said.

Q Do you know whether your sister-in-law had been a witness here in Court? A I went to work. I didn't pay no attention to my sister-in-law. I came home tired in the evening.

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Q And that was the first time that you knew that your testimony on this point would be of importance in the case, was it? A Yes, that was the first time; that was the first time. I don't know what I was going to say here. I don't know what they were going to ask me. In fact, I didn't come here alone. She took me over here, too.

THE DEFENDANT RESTS.

MR. SINGERMAN: The defendant rests, and I now again renew my motion for your Honor's direction to the jury to acquit this defendant, on the same grounds here to fore made.

THE COURT: The motion is denied.

MR. SINGERMAN: I take an exception.

THE COURT: Now, how long will you require for your summing up?

MR. SINGERMAN: Well, in view of these latter witnesses I don't know whether I would be obliged to use more time than an hour, but I will try to confine myself to an hour, if your Honor pleases. Possibly I may hasten through it before that, but I will try to limit myself to an hour.

THE COURT: I wish you would. That is to say, I don't want to limit you, but if you will take one hour it will enable the court to run according to schedule and advantageously and without waste of time.

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MR. SINGERMAN: Very well, I will do my utmost. 294

THE COURT: And, Mr. District Attorney, the same thing applies to you.

MR. WASSERVOGEL: Very well.

Mr. Singerman then sums up the case to the jury on behalf of the defendant ~~as follows~~:

May it please the Court, ~~and~~ you, Mr. Foreman, and you, Gentlemen of the Jury:

The State here has presented a case to you based on circumstantial evidence, and on the evidence as submitted the State asks for this man's life.

The District Attorney in his opening address to you gentlemen, promised to weld together certain links in the chain of evidence, and stated that when he will have done that he will ask for the conviction of this defendant on a charge of murder in the first degree.

Now, I ask you, gentlemen, whether he has made good that promise . I ask you whether the State has presented to you such a case ~~as~~ convincingly, logically, in such a manner as would justify a verdict at your hands of guilt.

His Honor will instruct you, gentlemen, at the proper time, that in order to convict a man on circumstantial evidence it is necessary first to establish certain definite facts and that, gentlemen, you must

Mr Wasservogel then summed up the case to the jury on behalf of the People.

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draw but one inference from those facts, the inference of the guilt of the defendant; and if, perchance, you may draw any other inference but that of his guilt, that you must acquit him.

Now, let us see what that circumstantial evidence is which the District Attorney has presented and which he claims has established such a case.

We will skip, for the time being, the testimony of those witnesses who were present and saw the body lying upon this roadway at Inwood. We will eliminate the testimony of all the others who witnessed the body, and get right down to the testimony of the witnesses to the facts involved in the body of the crime.

The State put on the stand Josephine Cucce. She was the woman, you remember, who wrote this letter for the deceased. We concede that is true. The deceased went to her when, which was before 8 o'clock; it may have been 7:30 in the evening of the 10th of August, and there she asked Josephine Cucce to write this letter. The letter was written; but bear in mind, gentlemen, the relations existing between the husband and wife, between the defendant and the deceased. The deceased, so this witness for the State testified, said, "Mention the regards of my husband", this defendant.

If there was anything wrong between them, if there was any dissention, would she have had his name in her

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mind, and the fact of mentioning regards of this defend ant, her husband, to her brother in Chicago?

It is true that this brother, who took the stand, here yesterday, testified that he did not receive such a letter.

There are many letters mailed and not received by the person to whom they are addressed.

And, furtheimore, gentlemen, this witness testified that he moved from the address that he had previously -- the premises that he had previously occupied, and that he did not notify his sister of the change of address.

First he stated that he had removed about two months ago, which would have brought it in the month of August, about the time this letter was written; and then when I ask him definitely to state the time, he says, Oh, about the early part of September. Now, there you have, gentlemen, a doubt immediately created. First the witness says two months, and then he says September. He may be like that other witness who testified here on behalf of the State whose memory seems to be somewhat at fault; and so much for that.

I agree with all the District Attorney has attempted to show us by this particular witness. W e subscribe to it; quite true.

Now, Josephine Cucce does not say she saw this defendant at any time at her house. She did not even

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see the deceased leave the house with this defendant, and she knows nothing whatsoever about the defendant's whereabouts on the night of August 10th.

Another circumstance bear in mind while we are upon this witness's testimony. She further stated, upon cross examination, that on the night of August 11th, the following night, this defendant called at her house and asked her had she seen his wife. That is consistent with out defense and consistent with everything that had gone before.

We will take the next witness for the State, Gregorio Scolla. We likewise agree with everything the State said about the testimony of this witness. It is true that the defendant met Scolla a little before 8 o'clock in the neighborhood of 125 Mott Street. Mind you, gentlemen, this is in a direct route of going to his own home, 133 Mott Street. And thereupon the deceased his wife, comes upon the scene, and Scolla says they walked away together, towards North, I believe he put it, from South to North, indicating in the direction of the home of this defendant 137 Mott Street; and thus far the State and the defense are consistent.

Now, the next witness's statement on the stand is Baronne,-- all their own witnesses -- and Mr. Wasservogel asked Baronne when he received this pay check from the defendant, the pay check he was entitled to from

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the Bradley Company, for whom he worked in Brooklyn, and he replied, "I thought it was Sunday when I told you before, but it was on a Thursday, because I was not working, and I thought that was Sunday, because I was not working."

These poor day laborers have so little recreation, gentlemen, as you know, so few holidays that when there is a day they are not working they are apt to mistake it for Sunday, which is their only day of rest and recreation. And he states, the District Attorney, flat-footedly, not-withstanding, the severe cross examination and the stigma that he wants to put upon him -- "Didn't you state to the Grand jury it was on a Sunday that you received this pay check?" He said, "Well, I thought it was Sunday because I was not working;" and that is a direct, straight and honest answer. We did not subpoena the gentleman, he was subpoenaed by the State. True, he claims he was a cousin of the defendant. He tells the truth, notwithstanding that. He tells the entire circumstance.

Then we come down to the saloon-keeper, Leopold Stigliano, another one of the State's witnesses. He says that this defendant and his brother-in-law, Bontorno came into his saloon; that, I believe, was Monday night, the 11th of August; and he had a paper in his hand, an Italian newspaper, containing a picture of

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this deceased; and the defendant comes to him and says, "I want to ask you something", apparently in fear and trembling because of the fact that he had lost his wife, because she was not home when he got home Monday night, mentally exercised about it; and he goes to Stigliano, in the company of his brother-in-law, and asked him for advice. What is more natural? A man in his position in life, a saloon keeper, among Italians who speak both English and Italian, almost occupies the position of a political leader in the district as far as they are concerned. These poor, ignorant, illiterate Italians look up to him as a leader, as an adviser, and to whom should they go with their little troubles, with their questions of doubt and fear, when they are but shortly in this country, but to the place where they congregate, possibly, in the evening, and get a glass of beer, knowing this man to be a man of influence in that community. So he goes to Stigliano and he asks him -- You heard his testimony, a bright, intelligent man, speaks English well; and Stigliano, who is standing there with this paper, says, "Here is something about a murder", and starts to read, gentlemen; and you will recall that I asked him, "Are you positive that the defendant did not see this picture in the paper before he said to you, 'That may be my wife'; and he says, 'No, I wont swear to that.'" They were stand-

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ing close together, there is no question about that. He can't be reading the paper and at the same time watching this man's eyes. You can't stand close to me, gentlemen, within six inches or a foot, with a news paper in your hands, but what I can look over and see anything that resembles a picture upon that paper. It stands to reason. It is common sense. It is natural that this man in all probability saw that picture.

And even assuming that he did not, for the sake of an argument, what is more natural to that mental attitude in which he was at the time, full of the strain upon him, gentlemen, for the loss of his wife, coming home that night and not finding her home, going to his brother-in-law, Bontorno, and asking him, or, rather, asking his wife first whether she had heard or seen anything of his wife, and in that mental frenzy what is more natural than he should say, at the first inkling of a murder, the idea of a picture of a woman being in the paper, that it might be that of his wife?

Why, gentlemen, we don't have to take a poor, ignorant man, and illiterate man, to have such fears and doubts. Take the most intelligent man, and under circumstances such as those, harrassed by thoughts such as those, the loss of his wife, what would be his first thought? He imagined she was possibly dead in some nook or corner of the City, and if he had any ink-

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ling of a woman somewhat resembling her, the thought of reading the article in the paper, before even he could glance at that paper, it might be she. That would be his first thought. It would be my first thought. We think the worst, because we always magnify our fears. We always make things worse than they are. That is human nature. Why should he be any worse than any one else? Why should he have less human blood in his veins? Why should he have less imagination, and why should he think less severely on the subject than you or I would under such circumstances?

Gentlemen, after the testimony of Stigliano, which I contend had nothing especial for the State, we come to officer Haggerty. Officer Haggerty, with a brother officer, on the 16th day of August, was sent to the premises to investigate, to find such incriminating evidence as they may be able to find, to assist the State in prosecuting this poor, ignorant, illiterate Italian, because a victim must be found.

Here is a case, gentlemen, like many others in the City of this great Metropolis that you read of, the disappearance of persons, the death of some one, another person murdered, some one found dead in the body of water near by, and the State is here for the purpose of prosecuting, and it is necessary that the Police Department or the Detective Force find that some one

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who has committed the crime.

I don't pass any aspersion upon the Detective Force or the Police Force, but I do think, gentlemen, that sometimes in order to establish a record of convictions, in order to show that this crime movement is not increasing, that they must find some victim, they must find some person who must answer to all the descriptions of the murderer, the one who committed the crime, and a matter of conscience does not trouble some officers.

What did these two officers do? They searched the premises, and they find People's Exhibit #2, this shoe last. I beg your pardon; I take that back. People's Exhibit #12. They likewise find other exhibits, which they have here, but they fail to find People's Exhibit #14, this bag, and the comb that accompanied the bag, People's Exhibit #8.

Now, they testified, gentlemen, or rather, Officer Haggerty testified that the rooms occupied by this defendant were too small, pitiful rooms, in a tenement, one serving as a kitchen and the other as a bed room, and that the total furniture contained in those two rooms were a bedstead, a chair and a stove and some clothes upon the wall. They searched for an hour two little insignificant rooms, and only found the articles which they brought to court.

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Is it natural that they should not look under the bedstead? What other space have they to search there? They can stand in one room and look in the other. They could almost look under the bed and see an object. The question, gentlemen, arises, was this bag, this People's Exhibit #14, and the comb, were those two exhibits upon the premises between the 16th of August, the time that they searched the rooms, and the 26th day of August, when officer Hawkins made another search and found these latter two exhibits. Strange that these two officers searched for an hour and could not find them. Strange that it took a further search by officer Hawkins to find these two exhibits.

Now, if these exhibits were not upon the premises, who put them there between August 16th and the 26th?

It is conceded that the defendant was arrested on or about the 15th or 16th. He was incarcerated ever since. He has not been out. He has no relatives, no friends of any magnitude. He is a poor, ignorant, illiterate Italian in the City. He had no motive, apparently, or the District Attorney has not shown, to commit this crime. There was no motive on account of the amount of money or jewelry she had, because he concedes jewelry was of no magnitude and no value. There is no motive here.

Who was it, gentlemen, that put these exhibits

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under that bed?

One theory is this: The defendant explained that possibly it may be when his wife left to mail the letter she took the bag and hung it on the bed, and it may have fallen behind the bed. He says "I don't know; I went to bed after we had eaten a bite; I went to bed; the light was burning when I went to bed; I don't know whether it was burning, or not, because I was in bed; I fell asleep; I don't know."

Now, did she put this bag on the bed when she first came in with him, and it possibly fell behind the bed after he got in bed, and so remained, or did somebody put it there? In common slang phrase, was it a plant, gentlemen? Was there any frame up by anybody?

I don't accuse anybody. I don't know. He doesn't know. He says, and he testified on the stand, that he told some person, and that person also testified here, the housekeeper, Madam Lambiase of the Elizabeth Street house, that some loafers wanted one hundred or one hundred and fifty dollars from him, or threatened him with some dire results, possibly the death of his wife; we don't know; it is for you to conjecture as well as themselves.

Gentlemen of the jury, whether it was perhaps some one who wanted to accomplish this fiendish result because they could not get the money, or whether some

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officers who perhaps wanted to make a record in this matter before the Police Department, to show that this so-called officer Digilio who made the translations, who made the investigations, to a certain extent is a big man and has discovered a murderer, is for you to conjecture. That must be left with you gentlemen.

Then we come to Salvatore Bontorno and Madam Lambiase. Gentlemen, we can truthfully say, when we reach the testimony of these witnesses, that a good liar needs a good memory. You will observe from the testimony of Salvatore Bontorno that he first stated, in direct answer to the District Attorney, that he left his work and that he went directly to his sister's home, the deceased; that he got there about five o'clock; that he did not go directly to his home, but he went to her home. What was his object in going to her home, if he was telling the truth?

And then, on cross examination, he admits that his wife told him, or some one else, he wont say who it was, it may have been his wife, it may have been some one else, that Giordano, the defendant, had been to his house that same evening and had inquired for his wife, Monday, August 11th, in the evening, about possibly six o'clock , or thereabouts, immediately after coming from his work.

Now, gentlemen, he admitted that to me on cross ex-

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amination. Now, which is the truth?

Did he first go to the house of this defendant and ask him where his sister was, at 5 o'clock, or did he go to his own home first, and did his wife, or some one else, tell him, and then did he leave to find Giordano? That is the most reasonable thing to be believed, because this man contradicts that statement and admits that he was home; that he did not go to Giordano's house first; and then, gentlemen, he joined him; and, notwithstanding that discrepancy, which we will pass for the moment, they go together to find the deceased at that time.

Bontorno did not suspect the defendant, didn't think any ill of him. In fact, from his own testimony, he says he was a good man, so far as he knew. He had a good reputation in Italy; he was a farmer there; and in this country he was a laborer. He does not know anything wrong of him. So, he did not suspect him, and did not doubt him. He believed everything that Giordano told him, and together they went away, brother-in-laws together, to hunt for this deceased. There was no suspicion in his mind; and, if there was not any suspicion in his mind, he, the nearest living relative, the brother-in-law of the man most interested, he could not find any motive; he didn't think of any, because there was none. Then, I say to you, gentlemen,

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it does look as if there was no motive.

And they go together to Stigliano's place. They went among the friends and relatives. They even went to the place where the deceased was known to work, and found the place locked.

Now, he goes on to tell us about this summons and ceremony, and he says it is a custom that three weeks elapse between the time of the civil ceremony and the religious ceremony; not two weeks, not two weeks and a half, but three weeks, and that during that time there was no obligation, as far as their religion was concerned, for the defendant to have supported this deceased. Therefore, she went home with him, with her own brother, Giordano, went to his own home, awaiting the time to elapse, three weeks, before they would have this religious ceremony performed.

It is true that before this set date, it developed that Giordano had lost a pocket-book, a red pocket-book. Gentlemen, you will remember I tried to confuse him on that point myself, I tried to make it appear as if he it might have had at the same time, to see and let you see, gentlemen, that truth must prevail.

He says he lost that red pocket-book; that he attempted to get car fare out of the pocket book, and, some how or other, this pocket-book disappeared, containing the life-saving of a man 42 years of age, $300,

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and there he was, mentally depressed, fraught with fear, feeling, gentlemen, that he could not establish a home for this woman unless he had some means.

He tells you that it was not this summons. I doubt whether he understood the purport of it, this ignorant, illterate farmer, laborer in this country, a man that has few friends, has been here but a short time, not understanding our customs or laws, in his lowly, humble way, this man didnot realize the importance of that, gentlemen, and he tells you here no, it was not that summons, which I explained to him; it was the fact that friends had advanced him money, loaned him $35; and in the meanwhile, between April, the time he lost this money, and the time that he should have performed the civil ceremony, on the 20th of that month, he made an additional sum of money, and with the $20 he had left in his pocket he established a home, bought himself some clothes, and the sister's dress was bought by the brother, and they went to house-keeping.

Now, there is no dissention there; I can see no animus; they did not have any dissention; there was no reason why this man should not live with this woman.

In fact, from what has been shown here, this was not a sentimental affair. Here you have two people in a lowly state of life, a man 42 years of age and a woman 39. The time for sentiment had passed, if there

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was any existing, and they married each other, have a home, have a little home that they estblished.

You heard the testimony in which this defendant says that the deceased earned probably five or six dollars a week during the last month that they lived together, and before that in the neighborhood of several dollars a week, and that he earned $1.60 a day, and this was used as a common fund.

He had no motive in killing her for money, if he killed her; she had no money; they used it together for their common purposes; and she had no jewels; and there seems to be no other reason.

Now, to get back to this ceremony. It absolutely took place on April 20th, three weeks exactly from March 31st, so he lived up to the agreement entered into; he complied with the laws and with the religion, gentlemen, and married this woman, and there seemed to be no difficulty whatsoever about that.

Now, Bontorno tells you that it was necessary to have a messenger come between and parley and have considerable discussion from time to time before this was done.

Then he tells you about this summons, that it was necessary to get this summons out to compel this defendant to support the deceased.

It was issued on the 16th day of April, gentlemen,

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although the three weeks had not elapsed until the 20th.

Do you believe his story? Do you believe that he is telling you the truth when he says most solemnly that there was no obligation on this man to support her until three weeks elapsed? That would make it the 20th. Then, why take this summons out on the 16th? If the defendant 's story does not fit in there, that he told him that he had lost his money, and for that reason was ashamed to go around to the house, this summons would never have been taken out, because it was the shame, as he expressed it to meet these people and tell this woman that he had no money with which to fit up a little home; and yet the moment he gets that money he marries this woman in the Church, on the 20th, the very day set forth.

Is there any hesitancy? Is there any refusal? Is there any ground to charge him with bad faith?

It seems to me his story is reasonable, is common sense.

Now, his memory was very poor as to the fact of whether his wife or some one else told him, on the night of the 11th of August, that Giordano had been to his home, very poor, hazy, indifferent ; he could not remember.

He remembers all these other things very distinctly, gentlemen, most positively. He remembers this

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People's Exhibit #2 as the shoe last belonging to the defendant, and he tells you most explicitly that the defendant only owned one shoe last. He don't know anything about People's Exhibit #12. He doesn't say that he recognizes that, or has ever seen it before, but he remembers one shoe last, the shoe last that no doubt, had been shown him before he took this witness stand, the shoe last which is the incriminating thing, the one found at 207th Street, the scene of the murder.

If this is so, how can we reconcile it, gentlemen, with the testimony given by these witnesses originally summoned by the State, who were here yesterday?

How can we reconcile all that statement with the testimony of Francesco Tevere? How can we reconcile that statement with the testimony of Angela Boscirca -- two witnesses that the District attorney sent for and officer Digilio was so insistent upon bring ing her, in order to satisfy the District Attorney; but the moment they found out that these people would not recognize Exhibit #2 the moment they found out, gentlemen, that these witnesses, honest, most deliberately honest witnesses, who picked out Exhibit #12 as the shoe last in the possession of the defendant, the moment they learned that they don't need these witnesses and don't want them.

It was then that I discovered these witnesses,

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gentlemen, because we had not subpoenaed them; we hadn't them in Court before that time; they didn't come here at our request, until we discovered that very crucial point in this case.

Shouldn't it have been the duty and the pride of the State, of the District Attorney, to let the truth come out, gentlemen of the jury? That is a very important factor. Why should he not have let them take the stand as witnesses, and let them tell the truth, if he investigated and found that that was so?

It is as much, it seems to me, to the interest of the people of this state that an innocent man should be acquitted as a guilty man convicted.

They did not falter, they did not contradict each other, they did not evade, they did not hesitate, but gentlemen of the jury, they passed right up to that table, and they picked out Exhibit #12, this shoe last, and they all described it as having a round top, except the very last witness we had here, Lamandola, and he described the round sole, the bottom of this shoe last, and then eventually, gentlemen, he wound up by saying, "It has a round top, runs up and has a round top and the other one has a point", if you recall.

Allowances must be made for some of these ignorant Italians who are unable properly to grasp questions, as we have seen, even through the Interpreter, no matter

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how astute and diligent he was and how conscientious the question does not always take hold with these people.

Now, gentlemen, those witnesses identified Exhibit #12; they picked it right out. I didn't have to hand them the shoe last, as officer Digilio did in the District Attorney's office, in Mr. Murphy's room. I simply said "Walk to the table and pick out the shoe last that belonged to the defendant, and how long did you know he owned that shoe last?", and each and every one testified the number of months, and it all came within the period of time that he himself testified he owned the shoe last, all within a year or twelve or fifteen months.

No, we get down to Officer Digilio, or, rather, we will take Madam Lambiase before that. She said she never spoke to the defendant, and yet, gentlemen, a very peculiar circumstance -- she recognized his voice on the night of August 10th by reason of the fact that she claims she had heard his voice many a time when he sought admittance to Bortono's apartment.

Now, she never heard him speak; she did not see him; she heard his knock on the door at the time that he got admittance, and she says she heard on several occasions that he knocked and called out for Bortono. How did she know that this defendant was the owner of

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vouce when she had never heard him talk on any occasion and seen him when he talked? That is very strage.

Now, she goes further. She did not see him, she says, on the night of the 10th. She says she heard he deceased say "my husband is calling me", and the deceased said that to Bortono's wife, who lived in the house.

Now, will you gentlemen just think for a moment why it was that the District Attorney did not produce Mrs. Bortuno here, the woman to whom the deceased spoke, to testify that she said that to her? To have her testify that the deceased was there and told her she was going with her husband for a walk, and wanted her to go along, and that she herself could not go, because she had children to take care of? Why wasn't she brought here to tell you that, gentlemen? A very important witness.

They bring this janitress who tells me, on the direct examination, which you gentlemen heard, that she was mistaken; that she told the District Attorney that she had seen Giordano on the 11th, 12th and 13th; that she saw him on the 12th and 13th, and did not see him on the 11th; she made a mistake, and that, when she saw him on the 12th, he toldher, she says, that two women came for his wife on the morning of the 12th and

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took her away to give her a job at seven or eight dollars a week; that is the first time we heard that story, gentlemen. Nobody else said anything about that. There is not a single witness that has taken the stand and corroborated that statement told by Madam Lambiase, the janitress of the Elizabeth Street house, not a single, solitary witness.

And doesn't it seem further strange, that, after this defendant went with his brother-in-law and saw Madam Cucce, on the night of the 11th, and saw Stigliano and saw the wive of Bontorno, had seen other people, had gone to the saloon and complained of the loss of his wife, on the night of the 11th, that on Tuesday, the 12th, he should make this ridiculous story, that two women came and took away his wife, to give her a job at seven or eight dollars a week ?

Now, what object could he have in telling her that? Why should he shield anything from her on the 12th, when, on the night of the 11eh it was known to everybody?

Now, do you believe her story? Do you believe every-bit of her inconsistent statements, in view of the fact that her own daughter took the stand and said she was in the same apartment with the mother, and she saw the defendant leave with the deceased?

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Why didn't the mothersay that? Why didn't Madam Lambiase say that? She said she did not say that. She said she heard the deceased say "my husband is calling me", and the daughter said "I saw them leave together"

Now, who is telling a falsehood here? Who is perjuring himself to put this poor, innocent man in the electric chair? And I ask you gentlemen, from all of that evidence, whether you believe the defendant's story, told in a simple, honest, straightforward way, or all of these perjured witnesses who have contradicted each other, and contradicted themselves?

Now, Madam Lambiase told you another story. She says the defendant told her that some loafers might have taken her away, and she talked to him only on the 12th and 13th-- some loafers took his wife away bedause he would not pay one hundred or one hundred and fifty dollars.

Now, gentlemen, which story is true? Which did he tell her, and which did she believe.

From the statement of the defendant on the stand, in which he testified that some men, ostensibly belonging to some gang, the black hand gang, had written him a black hand letter that if he did not pay one hundred or one hundred and fifty dollars, dire results would happen to his wife-- do you doubt that? If there is any truth

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in any statement, it is more probable he told the latter, because he himself testified to that, and that was the fear upon his mind.

Now, then, gentlemen, we have three or four witnesses who have absolutely picked out the shoe last.

Officer Digilio testified that he took two of these witnesses up stairs to Mr. Murphy's room. He did not say three.

Mr. Davidson, the process server, connected with Mr. Murphy's room says there were three. Officer Digilio says two. He says he went up stairs. I asked him what he did. He says that he put the shoe lasts upon the table, and I said "both?" , and he said, "yes", and I asked him if the District Attorney had directed him to do this, and first, this gentleman's answer was that he was directed by the District Attorney to do these things, and then he equivocates, and then he evades, gentlemen, because he tells you in the next breath, "Well, I won't say he told me to put the two shoe lasts on the table and show the two shoe lasts."

I asked him if it was a matter of fact that he picked them both up in his hand when he explained them to the witnesses and showed them to them for identification, and he says, "no". He says that he picked up people's exhibit -- he picked up one, I don't even know if he

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knew which one he picked up.

Now, we have the testimony here of Mr. Breckenridge, Assistant District Attorney, in which he says he is positive that Detective Digilio handed only one of these shoe lasts to the witnesses. He will not state which one of the two it was, but he knows that he handed him only one.-- a reputable man, an Assistant District Attorney, connected with the office of the prosecuting attorney's office of this County. He knows positively it was only one, gentlemen.

Sargeant Willimese does not know anything about it. He was being interviewed by Mr. Breckenridge; he was busy, and he says he just knows that the shoe lasts were there; he don't know much about it, whether they were wrapped up and put back, whether they were left there, whether they were both taken out of the same package, or not; so his testimony is of no consequence.

Davidson is absolutely unable to testify, so he sits right at the table, in the office of Mr. Murphy, and seesthe entire transaction, he was not positive, gentlemen, about anything; he does not know from where officer Digilio took these shoe lasts. He says he remembers that officer Digilio took one of the lasts and gave it to the witness, and that he placed it back or the table; he does not say "both"; and that bears out

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my contention in this respect, gentlemen: Why should officer Digilio show these witnsses both shoe lasts? He contends he showedthem both, and they said neither one of the shoe lasts were owned by the defendant.

As a matter of strict fact, people's exhibit No. 12, the shoe last he contends belonged to the defendant, was found upon his premises by the officer, on the 16th day of August, in his possession, in his rooms, and if they ever put Bortono on the stand and asked him, "is that the shoe last of this defendant"?, he could have identified that very easily, knowing the defendant, knowing the shoe last, and the fact that it was in his possession; but they don't ask the relative, the man that knew the shoe last, the man that was closest to this defendant, they don't take the evidence that they found the shoe last in his possession as sufficient on that, but ~~the~~ Digilio claims he took the two of them, when there was no reason, no purpose whztsoever for exhibiting both shoe lasts to these witnesses. His main point was to find out whether Exhibit No. 2, which was found beside the body of the deceased, belonged to the defendant.

And what object did he have in showing him the other shoe last, or showing him a dozen chairs or a table? It had no purpose.

The first thought that would strike a human being

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would be that officer Digilio would say, "Did you ever see this shoe last before?", and show them the shoe last that was found alongside of the body. That is reasonable. That is common sense and that is upon what we predicate a case of this sort, gentlemen, the use of common sense. But he claims he showedboth. Why? He had a purpose, an object, asmuch as he had in everything elsd he said, which was contradictory.

You remember when he testified, he said he could remember, word for word, every question that was put to him and every answer that was given by him literally that took place six weeks ago; he could remember, gentlemen, without any question of doubt, he was most positive, and when it came down to cross examination, he contradicted himself, and he forgot what he had stated only five minutes before to the District Attorney. That is the man that has such a splendid memory, that can recall, word for word, literally, what took place on the examination of Giordano, for the purpose of incriminating this poor, innocent soul, for the purpose of having a victim here, gentlemen. This man had to come before you as a high and mighty power, as an officer who had done great duty to the State, as a man who deserved honors and credit, and he wants his name to be high in the department. I say to you that a man

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who does not remember for five minutes what he had said, who can tell you that six weeks ago, when he took a statement, he can give you word for word, literally, what was said, is not a man to be believed here, gentlemen. He is simply playing upon you for his record, playing upon you for the results.

The other two witnesses that identified the last on behalf of the defendant, gentlemen, were likewise witnesses, as I understand, the state wished to introduce, and after discovering exactly the story, these witnesses were not produced by the state.

Now, it has been said that the defendant tried to commit suicide.

THE COURT: You have been talking about fifty minutes.

MR. SINGERMAN: I would just like to have five minutes more.

THE COURT: Yes.

MR. SINGERMAN: It is said the defendant tried to commit suicide, gentlemen, and the state makes a whole lot of that.

Bear in mind, gentlemen, you have here, an ignorant, illiterate, poor Italian, friendless in this country. Think of his frienzied state of mind under such circumstances, charged with murder in the first degree, never

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been in any trouble before, and never convicted, never arrested.

Why, gentleman, what would be the frame of mind of an intelligent man under such circumstances? An intelligent man, with all the influences and the power and the capabilities of looking after himself, why, stronger, very much stronger men, more intelligent men, have succumbed to the same feeling, and have committed suicide perhaps, even though innocent. That is nothing strange.

Now, on the question of the light in the room that the District Attorney makes so much of. Another important factor. Why, gentlemen, it has been conceded in the record here that it rained between eight and nine o'clock, the weather bureau's report states so, on the night of August 10th. This tailor, the man that has positively sworn that the weather was fair and that he slept upon the fire escape, this tailor testified, gentlemen, Lancia, that he slept from nine o'clock on, and that it did not rain; and, mind you, we have the further record that between 12:45 A. M. and three A. M., or two fifteen A. M. on the morning of the eleventh, that it we had showers, precipitations. Could he have slept during all those showers, gentlemen? Could he have awakened at two o'clock and lit his pipe, amid all those showers, when he said it was nice weather, and that

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he looked down and saw a light burning? Do you believe that man, when the weather bureau reports to the contrary, when he says it was fair weather? A man who would lie about that -- and he would not be on that fire escape during those showers -- would lie about everything.

Now, gentlemen, we come back to the consideration of circumstantial evidence. By one word, gentlemen, you can send this man to his death; by one breath you can bid him go. That is for you to say. You are the judges, and it is for you to determine what will be the judgment.

But, gentlemen, by all that is holy, sacred and dear, by the same measure that you would judge your son or daughter, I appeal to you to judge this poor, ignorant, illeterate Italian; judge by the Golden Rule; judge as ye would be judged, gentlemen, and when you do that, you will have no fear of the results, you will have no pangs of conscience. I thank you.

THE COURT: Well, Mr. District Attorney, your adversary has kept well within the hour. You may proceed now.

MR. WASSERVOGEL: I will try to do likewise.

(Mr. Wasservogel then summed up the case to the jury on behalf of thepeople, as follows:-)

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May it please your Honor, and Gentlemen of the Jury:

Before you were accepted as jurors in this case, at the very threshold of this trial, you were told that, so far as the People have been able to ascertain, no human eye saw this defendant strike down and slay his wife. You were told that the evidence against him is what in law is called circumstantial evidence, and you were asked whether you had any prejudice against such evidence, and whether, upon such evidence, you would be willing to give to the people of the State the same fair trial to which this defendant is entitled, and you stated that you would.

And now that the evidence is in, the State comes to you twelve men and asks you to redeem your promise, for the reason that, we contend, we have called to your attention facts and circumstances which, when taken together, present so complete a picture of this crime as conclusively to establish the guilt of this defendant beyond a reasonable doubt.

Now, it has been said, gentlemen, that evidence is not to be discredited because circumstantial. It has often more reliable elements than direct evidence. Where it points irresistantly and exclusively to the commission by the defendant of the crime, a verdict of guilty may rest upon a surer basis than when rendered

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upon the testimony of eye-witnesses, whose memories must be relied upon, and whose passions or prejudices may have influenced their testimony. If, taken together, it leads to a conclusion of guilt with which no material fact is at variance, it constitutes a higher form of evidence which the law demands where life or liberty of the defendant is at stake, and neither jurors nor the Court can conscientiously disregard it.

And, again, unfortunatelyfor the administration of justice, the limitations of human intelligence are such that many things must rest upon reasonable inference rather than upon absolute knowledge. No one can know the workings of the defendant's mind, except as his words and his acts have disclosed them.

What I have just read to you, gentlemen, are declarations of the law as laid down by the highest court of appeal in this State.

Now, in the discussion of the evidence in this case, we start out with several propositions which are either conceded or regarding which there can be no dispute.

In the first place, it is conceded that the body of the woman found on the night of the tenth of August, in the upper road, near 207th Street, was the body of the wife of this defendant.

It is conceded, gentlemen, that this defendant is the last human being in whose company this deceased woman

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was last seen alive; and, surely, it cannot be claimed that this Italian woman, only five months in the country, left her home in Mott Street, and went alone all the way up to 207th Street, taking with her a shoe-last, and, when alone there, that she herself fractured her own skull, and, having fractured her own skull, that she took this knife and cut off her neck, so that the head was simply attached to the body at the spinal column, by a thread.

Now, the body having been found under such circumstances, gentlemen, and being convinced, as reasonable men, that she was not self-slain, the first question that presents itself is, what was the motive for this crime? Who had the motive to commit such a crime?

And, irresistibly, gentlemen, the facts and the circumstances point to this defendant, and to him alone, as the one person in all the world that had a motive to commit this crime, and that motive was to rid himself of the woman who he had been compelled to marry against his will.

You will recall, gentlemen, this woman came here some five months before her death, a poor, ignorant woman, went to work in a rag shop, a hard working woman, made the acquaintance of this innocent man here, arranged to get married, went to church, where the bans were published, then went down to the City Hall, where a civil

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marriage was entered into, because that was legally binding under our law, but these Italians don't know that. According to their customs, they had to go through a religious ceremony as well; and it was agreed, in accordance with their customs, that the religious ceremony was to be gone through with three weeks hence.

But, between the day of the civil marriage and the day when the religious ceremony was to be performed, this defendant underwent a change of heart. He called on the brother of this woman and said "I cannot marry your sister". His claim was that he had lost some money. No matter what his claim was, he said he would not marry her.

What do they do? They went to court, to the Domestic Relations Court, and obtained a summons for him, directing him to appear in court. That summons, gentlemen, was issued on 16th of April; it was made returnable on the 18th of April.

This Italian, when he received this summons, did not want to go to court, and, rather than go to court about this matter, he said "All right, I will marry her"; and he did marry her, on the 20th of April.

But the fact that he had been compelled to marry her rankled in his breast, until, on the 10th of August, what do we find?

She had visited some relative. She met the defendant

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at about eight o'clock on the street. They were seen together at that time.

At half past ten that night her mutilated body was found in a pool of blood, up at Inwood.

At a quarter of ten, gentlemen, some people who were passing through that road found the road clear. The body was not there at that time.

You will recall that Dr. Stoerzer said that, at a quarter past eleven, when he found the body, the body was still warm.

You will recall that Officer Hawkins told you that it takes about an hour and twenty minutes to go from 137 Mott Street to 207th Street.

So that this crime was committed between a quarter of ten and half past ten that night.

Dr. Stoerzer also told you -- by the way, here is the position in which the body was found (indicating on photograph, People's Exhibit No. 1). You all saw this photograph. It was offered in evidence.

Dr. Stoerzer told you of the wounds that he found on the head and on the neck.

Dr. Weston, who performed the autopsy, told you of the wound above the right ear. There was a large, ragged wound, measuring about two inches, the edges were torn, the wound extended to the bone, and underneath these

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wounds was an extensive fracture of the skull, and that the tissues of the neck were severed down to the spinal column.

These people were walking there; they must have gotten into an altercation, when, suddenly, he hit her on the back of the head with one of these shoe-lasts.

Officer Hyman told you of the finding of the knife with blood upon it; and the finding of this shoe-last with blood upon it.

Now, Gentlemen of the Jury, crimes of violence are most frequently committed in secret, and at a time when the person who commits the crime believes that no human eye is watching, but there is always present an all-seing Providence before whom there are no secrets and no mysteries, and no matter how secure and safe the criminal may believe himself to be, no matter how clever he may be in hiding the traces of his crime, almost always, gentlemen, there is something which is forgotten, something which is overlooked and which leads to his detection, and that something is here, the something which was overlooked and was left behind, was not taken along by the person who committed this crime, and that is People's Exhibit No. 2. That was left behind, and this it is which led to the defendant's undoing.

Officer Hyman told you that after the defendant's arrest, the defendant's shoes were taken off, and the

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shoe-last was fitted into his shoes. That is admitted. No dispute about that. They can't deny that.

He also told you that he took the shoe-last and fitted it into the wound on the back of the woman's head, and that the indentation made by this pointed part of the shoe-last could plainly be seen on that woman's head.

Salvatore Bontorno simply testified regarding the civil and the religious ceremony and regarding the court summons which was issued and served, and also regarding the refusal of the defendant to marry his sister.

He told you that, in accordance with his custom, on his way home from work on the night of the 11th of August, he stopped in at the home of his sister, to see how she was; it is natural for a brother to do that; and he found that she was not home.

Subsequently, he met the defendant, and he asked him, "Where is my sister? Where is your wife?".

What did he say? He said, "I suppose she is working yet". That is his statement.

This brother positively identifies the shoe-last, People's Exhibit No. 2, as a shoe-last which he had frequently seen in the home of this defendant, while the defendant was living with his sister, the defendant's wife. This shoe-last is positively identified by him. And when my friend showed him this shoe-last, he said he

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did not remember that at all, and called attention to the fact, and you can see it for yourselves, that this shoe-last, People's Exhibit No. 12, is practically new, and had seldom been used.

Now, to call attention to some of the contradictory statements by this defendant.

Mrs. Cucce, the woman who had written a letter for the deceased, saw this defendant on the night after the deceased's disappearance. She asked him, "Where is your wife?" he said that the wife had gone to work, and had not returned home as yet.

To Mrs. Lambiase, referring to the wife, the defendant said, "She went to work with some women about half past seven Monday morning; two women came to the house and took my wife to work, saying that she would make seven or eight dollars per week."

Stigliano, the saloon-keeper, said that the defendant told him that his wife had gone to work on Monday morning and had not returned, and that when she went to work she took all her jewelry with her.

You will recall that when Stiglano was on the stand one of your members asked him this question: "Q. Was it on Tuesday morning, August 12th, that this conversation took place in the saloon?", and the answer was, "yes, sir". Question, "And did the defendant say that his wife had gone to work the morning previous to that?" Answer,

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"Yes, sir, on Monday morning." You remember that.

And then, again, with reference to this newspaper which was the subject of conversation between the defendant and Stiglano and some other people who were present at that time, one of your number asked the witness, "You said that when you read that a woman had been found dead, the defendant said, 'That may be my wife.' was that before he saw the paper? A. He may have seen the picture before; I don't know; but I showed him the picture after he said that."

It is conceded that the two witnesses, Scolla and Mrs. Bruno, saw the defendant and his wife together on the street at about eight o'clock.

Officer Hawkins simply testified to the fitting of the shoe-last into the shoes which were found in the defendant's home on the 20th of August. These shoes, you will recall, gentlemen, were admitted by the defendant to be his shoes. I will have more to say about those shoes when we come to the defendant's testimony.

Officer Haggerty found the new shoe-last, People's Exhibit No. 12, which, as you see, has apparently not been used at all, and he also testified that he found this shoe leather and these tacks and other articles which the defendant admits belonged to him.

Now, my friend has called attention to the testimony of this man Nicola Lancia, the tailor, the man who said

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he was on the fire escape on the morning of August 11th, and saw a light in the room of this defendant.

It is conceded, gentlemen, that it rained between the hours of 12:45 and about 2:00 on the morning of August 11th. It is also in the record that there was no rain between a quarter of nine that night and a quarter to one the following morning, no rain at all.

Now, I don't believe that Lancia came here and deliberately lied when he says that he saw a light in the defendant's room. There was no motive for him to lie. There is no grudge between him and this defendant. They hardly knew each other, no reason why he should lie. I am more inclined to believe that Lancia is mistaken about the time when he saw the light in that window, or the rooms, or it may be that he was lying in such a position on that fire escape that the rain did not touch him, or perhaps it may be, as it must be within your knowledge, gentlemen, that sometimes in the City of New York it rains in one part of the city and does not in another. We have not been able to get official proof whether it rained in that particular section of the city that night, or not.

MR. SINGERMAN: You did concede, Mr. Wasservogel, that it rained in the downtown district at those times.

MR. WASSERVOGEL: But there is no way of proving whether it rained in any particular block.

MR. SINGERMAN: Except that it rained in the downtown

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district.

MR. WASSERVOGEL: So, in reference to that man's testimony, in fairness to the defendant, gentlemen, bear with me in this, in fairness to the defendant, if there is one of you who has the slightest doubt that Lancia saw a light in the defendant's room that night, I want you to take Lancia's testimony absolutely out of the record and absolutely disregard it and pay no attention to it whatsoever, because it is our contention that the case against the defendant is absolutely complete without his testimony, and this case against the defendant does not hinge on any question as to whether it rained or whether it did not rain; it does not hinge upon any question of whether there was a light in the room, or whether there was not a light in the room.

Officer Digilio told you that after the arrest of the defendant, and after his attempt to commit suicide, and after he had been taken to the prison ward at Bellevue Hospital, the defendant made to him, upon three separate occasions, three statements to him.

Now, I am going to read, briefly, the statements which he made upon each occasion, and I am going to be as brief as possible.

He was asked, "The woman Salvatora Giordano is your wife? A. Yes, sir".

"Q. And when did you see her last? A. I left

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her in bed on Monday morning when I left for work."

That was the statement of August 16th.

And, as part of the same statement, "I went on the street and remained on the street, and about eight o'clock I met the two Scolla brothers, and I was talking to them, when my wife came along. At about 9:20 we went home. I opened the door. We entered. We had a little lunch, supper, and I went to bed. On Monday morning I got up at five o'clock, and I left my wife in bed, and I continued on to my work."

Now, on August 18th, he made this statement to Officer Digilio: "On that day, August 10th, the defendant said that his wife went out to get a letter written, over to the godmother's house, and that he went with her. He did not go upstairs, but he remained on the street, and about nine o'clock he says he went home with her, about nine, or a quarter past nine, he had supper; then he went to bed. The next morning he says he got up to go to work, and at five o'clock he left the wife in bed, and he went on to work."

Now, between the 18th and the 25th, the defendant probably discussed his case with some of his friends and relatives who probably called to his attention the fact, "Now, you must be wrong about this thing, you must not say that you saw your wife in bed on Monday morning, because they found her dead up there on Sunday night."

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you say that they will catch you in a lie; they will find out that you are the one who committed this crime".

So, what does he say then? He says that when Digilio came into the ward in Bellevue Hospital, the defendant said, "I want to talk to you." I said,"what is it? what do you want to tell me?" The defendant said,"I want to tell you the truth about this. I have been all mixed up. My head was not right for a time, and now for the last two or three days I have come back to my senses." Officer Digilio said "If you say anything it may be used against you at the trial, if you are brought to trial." He says, "I want to tell the truth now. On Sunday afternoon, August 10th, I was drunk". That is his story on August 25th -- "I was drinking beer, and I was drinking wine, and at about half past eight I went home; when I got home with my wife I fell asleep, and I slept all through the night, until five o'clock in the morning. When I got up I was still dizzy, and I left for work."

"Did you see your wife in bed? Did you notice your wife in bed?" "I don't remember".

"Did your wife go out before you fell asleep?" "I don't remember".

So, you see, by the time he comes to trial here he changes his story once more, and this time he positively knows that his wife was not in bed at the time he left for work on Monday morning at five o'clock.

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Now, coming to the defense in this case, gentlemen, the defense is in the nature of an alibi. The word "alibi" is a Latin word, which means "elsewhere".

An honest alibi is the strongest defense known to the law, whereas a dishonest alibi is the refuge, and is the effort on the part of a crook to show that he was elsewhere when he was right there at the scene of the crime.

The defendant produces several witnesses, intimate friends of his, who say positively that they recognize this shoe-last, People's Exhibit No. 12, and two of these witnesses say that they were taken upstairs to the office of the District-Attorney, and that there Officer Digilio had simply shown to them one of these shoe-lasts, and that the other one was not there at all, and was not in sight.

Now, on that question, gentlemen, the State has produced before you not only Officer Digilio, but Sergeant Willemese, a young man named Joseph Davidson, and Assistant District-Attorney Breckenridge, who was in charge of the preparation of the case in the Homicide Bureau; and a question of veracity is presented as between these two witnesses and these four City officials, all of them City Officials, who performed their duty according to law, and testified here only because it was their duty under the law to testify, and for no other reason.

They told you positively that both of these shoe-lasts were upon the table at the time when the witnesses were

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taken into the room and shown the shoe-lasts, and there can't be any question about it.

Q Now, let me call your attention to one thing with regard to the testimony of the four witnesses who say that the shoe-last which they remember the defendant had was this shoe-last, People's Exhibit No. 12. Now, this is very important, gentlemen. Every one of these witnesses say "I saw the shoe-last in the defendant's possession when he lived with me, before he got married." That was in April. Not one of these witnesses ever visited the defendant at his home. What was there to prevent that defendant from buying one or two or a dozen shoe-lasts between April and August? The mere fact that they knew he had one shoe-last -- he may have had this one in April or in March, when they testified, but surely that is no proof, because he had this one in April, that he did not have this one in August. He might easily have had both. He may have had a dozen, as I say.

The defendant testified that the only reason which he had for refusing to marry this woman was because he had lost his pocketbook containing some money.

You all remember the incident about the pocketbook when the defendant was on the stand. I had him describe the pocketbook in which the money was contained that he claims he lost. I showed him first a pocketbook that I carry, and asked him whether it was a pocketbook like this,

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and he said,"no, it was a small pocketbook". I then showed him the pocketbook which Mr. Murphy carries, and he said "no, it was a larger pocketbook". Not a suggestion about the color of it then, not a word about the color being red.

I asked him where he had obtained the pocketbook which he had lost, and he said he had obtained it down in Buenos Ayres, and when I flashed before him the pocketbook containing the mark Buenos Ayres upon it, and asked, "Isn't this the pocketbook which you had?", immediately the answer came "no, it was red". Everything this fellow sees now-a-days is red, gentlemen, after this crime.

Then he said that this pocketbook which I showed him had always been kept at his home, that he never carried it with him, and when I called his attention to the fact that it contained a transfer -- you remember the transfer -- I don't know where it is at this moment -- a transfer dated August 15th of this year, he said, "Well, whenever I received a transfer I would take it home and save it." You don't believe that, do you.

But what difference does it make, gentlemen, whether he lost his pocketbook or whether he did not? What difference does it make why he refused to marry the woman? the fact remains that he did refuse to marry the woman, and that it was not until the court proceedings had been

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commenced that the religious ceremony was performed in a Catholic church.

He tells you himself about meeting his wife at a quarter past eight that night, about going home, having some supper, and that he fell asleep, so he claims. He says that before going to sleep his wife said something about going out to mail a letter, but he was questioned about this very letter after his arrest, and what does he say there?

"Q. Did you see her mail this letter? A. No, she said it was late and she couldn't get any stamps at that time."

And again, "So, the letter was not mailed? A. No, I don't think it was mailed before that; she had no stamp."

And it was not mailed, gentlemen, because we brought Vita Bontorno, the man to whom the letter was supposed to have been addressed, we brought him all the way from Chicago, and he said that no such letter had ever been received by him.

My friend says mail sometimes goes astray. It is certainly a strange coincidence that this particular letter which the defendant says was mailed, that that should have gone astray. You know how seldom it happens that letters go astray.

It is true, gentlemen, that this defendant went, two days later, went with the brother of the deceased to the

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stationhouse, to make a statement to the police regarding the alleged disappearance of his wife; that is true that is frequently done by men charged with crime, by criminals, in order to avoid suspicion being directed against them. That is the only reason they do that.

You will remember that he told the brother of the deceased, when questioned regarding the whereabouts of the deceased,"I suppose she is working yet."

He told Mrs. Cucce that the wife went to work and has not returned home as yet. He told Mrs. Lambiase that she went to work with some women about 7:30 Monday morning, when two women came to the house and took my wife to work, saying she would make seven or eight dollars a week.

He told Stiglano that the wife had gone to work Monday morning and had not returned.

He told Digilio that his wife was home at five o'clock that morning when he left. That is, he told him that on the first occasion; he told that on the second visit of Officer Digilio at the hospital; and the third time he said, "I don't remember whether she was there, or not".

Now, gentlemen, the question that is presented to you with regard to the statements made by these witnesses on the stand under oath is simply this: Are all these people lying, and are they all in a conspiracy against the

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defendant? And is the defendant the only person who has testified in this case who told the truth?

Now, the little things in a case are frequently of great importance? You will remember that when my friend was questioning the defendant regarding the shoe-lasts and the ownership of the shoe-lasts, after identifying one of them, Mr. Singerman asked the defendant, "Where did you get the shoe-last?" You remember the defendant said "Which one?"

MR. SINGERMAN: I object to that. I don't think it was the testimony at all. I don't recall that.

THE COURT: The jury are instructed to depend on their own memory as to the testimony, and not to accept statements made by counsel on either side as to it.

MR. WASSERVOGEL: If I am in error, gentlemen, with regard to any statement of the evidence, I want you absolutely to disregard it. It is my earnest desire to be absolutely fair to this defendant, and I know that you believe that I want to be fair with you, and I know that you remember that very incident, when the defendant was on the stand, that my friend asked him, and I can refer to the record if I have the time to do so, but there was another incident with respect to the shoes which you also must remember.

On direct examination, my friend asked the defendant

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to fit this shoe-last, People's Exhibit No. 12, into the shoes which the defendant admitted were his shoes, and with out any hesitation at all he took the shoe-last into his hand and fitted it in very nicely.

On cross-examination, I said to him, if you remember, "Now, your counsel has asked you to fit this other shoe-last into the shoe, but apparently he has forgotten to ask you to fit this shoe-last, People's Exhibit No. 2, into the shoe. Won't you please try to do it?".

Do you remember how he shrank away, "No, no", he wouldn't do it, until he had to be urged. You all remember that. He had to be urged to do it.

He said he bought that shoe-last for twenty cents from a man who was about to go to Italy. These other things he found after having bought the shoe-last. He says that he very seldom repaired his shoes, that the most he ever did was to put a nail in, and when I showed him the patches here, which are clearly home-mending -- you don't have to be a cobbler to see that -- he said no, he bought the shoes in this condition, bought them just as they are. That is practically the story that they want you to believe, gentlemen.

Surely, you will not say that a man who is capable of committing murder is incapable of committing perjury?

You must bear in mind, gentlemen, that the motive for this crime was not rape. Dr. Stoerzer told you that.

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You must bear in mind that the motive for this crime was not robbery, because she had nothing of value upon her person whatsoever.

The only person in all the world that had a motive to commit this crime was this defendant, and that motive, as I have already told you, was to rid himself of the woman whom he had been compelled to marry against his will.

Also remember that he was the very last person in whose company this woman was last seen alive, and that his shoe-last, his shoe-last was found near her body.

Now, if there is one man among you twelve New York men who will say that he conscientiously believes that some one other than the defendant used his shoe-last to slay the defendant's wife, why, to that man I say acquit the defendant.

The State is not here looking for victims. We are not here looking for blood. The State simply asks that its laws be enforced, and nothing else.

I don't know whether his Honor expects to submit the case to you before recess or not, but that is practically all there is to this case, gentlemen.

I realize full well that a criminal trial is a serious matter to a defendant who is on trial, but it is also serious to the people of this community, the community in which you and I live and the community for which we demand respect in spite of everything, and when a man is brought to

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trial charged with the commission of crime and evidence is produced which clearly proves his guilt, and then jurors, representing the business intelligence of the community, say, "Oh, well, what do we care about this? We don't care about this; we will let him go; he won't do it again", why, then, gentlemen, the criminal law becomes impossible of enforcement.

On the night of the 10th of August murder was committed in this community, deliberate, premeditated murder, murder in its first degree. Upon the evidence in this case, upon these mute evidences of the defendant's guilt, the State asks you twelve men to declare him guilty as charged in the indictment.

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THE COURT'S CHARGE

FOSTER, J.:

Gentlemen; Shakespeare somewhere says "There is weakness in much talking", and I am not going to do much talking in my charge. I am not intending to repeat anything, and, therefore, that you may understand the charge and be guided and controlled by it, as is your duty, it is important that you attend closely and remember exactly and accurately.

In a criminal trial the rules of law are somewhat different than those that obtain in a trial before the civil Courts. In the criminal Courts the Judge is made the trier of the law and the Jury the trier of the facts. That means that whatever I say is the law you gentlemen must follow as the law, and you have sworn so to do, to accept it as the law of the land, and be guided and be controlled by it. No matter whether you agree with what I may say, or disagree with it, it becomes the law of the case as I declare it.

The Stenographer is taking down every word that I say, to the end that it may be written out and submitted to the Appellate Courts, if appeal there shall be, so that the Appellate Court may review it and examine it

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with care, and if there be error in it may reverse it and give this defendant a new trial.

But if you gentlemen do not accept the law that I declare, an injustice is done either to The People on the one hand or the defendant on the other, because the defendant is tried under the law, a review whereof cannot be had.

So, gentlemen, you must listen attentively, and remember, as I said before, the facts.

There are certain principles of law in general application that apply to this case. The defendant is presumed to be innocent, and the burden of proving his guilt rests upon The People, who here are represented by the District Attorney, so that it becomes the duty of the District Attorney to lay before you legal proof convincing beyond any reasonable doubt of the defendant's guilt. If he fails to do that, the defendant is entitled to an acquittal.

The term "reasonable doubt" in Court has precisely the same meaning that that term has in the world outside, and I take it all that the law expects of you is that you shall fairly try the issues submitted. If, as reasonable men, you entertain a reasonable doubt, the defendant is entitled to the benefit of it; but you are expected to give this case the same care, the

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same honest decision that you give to the weighty and important affairs that concern you in your daily lives. If you do that you do your full duty. If in your daily life you are confromted with a situation calling for your decision, it is not at all likely that that situation would be free from doubt. It probably has been your experience that in this world nothing is free from doubt. Now, is the doubt a reasonable one ?

The law does not require that the defendant's guilt be proved beyond any possibility of doubt, because if it did we could never by human testimony convict anyone, for it is possible, is it not, that every witness who gives testimony lies ? Such is a possibility, I take it, but is that a probability ? Is that a reasonable liklihood ?

So, you are expected to use your good, common sense, all your good, common sense, gentlemen, and weigh the evidence in the light of reason. If you do that, I repeat, you do your full duty.

This case is one of homicide, one of the most serious known to the law. With the consequences of your verdict you are not concerned. You have no more responsibility as to what shall be done with this defendant than I have with your decision. You are supreme in the correct decision of the facts; I as to the law.

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If I mis-state the law, your duty is to follow it, and your duty is to correctly determine the facts.

Homicide is the killing of one human being by the act, procurement or ommission of another.

Homicide is either murder or manslaughter, depending upon whether or not the killing was the result of a design or intention to kill.

If accidentally, Mr. Foreman, I fall against you, knocking you over, fracturing your skull and killing you, I am not guilty of murder, because I did not intend to do it.

If I strike you intentionally, and you fall and fracture your skull, the question arises whether I intended to kill you or not. If I intended to kill you, there may be murder predicated upon it. If I did not intend to kill you, there may be manslaughter.

I am coming to a more accurate definition, gentlemen. I am only bringing to your attention the demarcation between murder and manslaughter. It depends upon whether or not there was a design to kill.

The first degree of murder is the charge made against this defendant. That is the charge that The People press upon you for decision. It is, therefore, important, is it not, for me to tell you what acts the law says constitute the crime of murder in its first

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degree ?

If the acts proved against the defendant measure up to and fulfill the defimition which the law lays down of murder in its first degree, then you and each of you, under your oaths, are bound to so find. Whether it does so measure up and fulfill the defimition is a question for you gentlemen to decide and determine.

The killing of a human being, unless it is excusable or justifiable, and there is no contention here that this was either excusable or justifiable, I believe, Mr. Singerman ?

MR. SINGERMAN: There is not.

THE COURT: Is murder in its first degree when committed from a deliberate and premeditated design to effect the death of the person killed.

It is contended here by The People, and I understand that there is no substantial dispute about it, and if there is I beg Counsel to interrupt me, for I have no wish to state facts; perhaps I need not say I do not wish to state facts; I have no intention of stating facts, except those conceded. The People claim that on the 10th day of August last Salvatora Giordano was killed in the City and County of New York. No dispute about that, is there ? Now, who killed her ?

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If this defendant did, he is guilty under the law. If he did not, he should be acquitted, no matter who did it. If you entertain any reasonable doubt as to whether this defendant killed her, acquit him.

If he did kill her, then did he commit the crime of murder in its first degree ? Did he kill ? That is the first question to determine. If he did, did he do it from a design to kill, and was that design premeditated and deliberated ? If it was, he is guilty of murder in its first degree.

Now, The People claim to have established all the essential facts of this case beyond a reasonable doubt and to have shown that this defendant committed the acts charged and the crime charged and proved it beyond a reasonable doubt by circumstantial evidence.

Circumstantial evidence, gentlemen, is evidence of circumstances from which you draw the inference desired. When you go out in the street you may observe that the street is wet, and you ask yourself, do you not, has it been raining, and you look up to the sky to see whether the conditions there betoken a shower or wet weather. If not, you look at the sidewalk to see whether the sidewalks are wet, you look at the roofs and eaves of the buildings to see whether the water is dripping, in

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order to determine whether it is rain or whether, perchance, a watering cart has been wetting the street. Now, those are circumstances, and you ordinarily do not shrink from determining in your own mind whether it was the gentle rain of Heaven or whether it was one of Studebaker's watering carts that dampened the streets. Now, that is circumstantial evidence. You determine from circumstantial evidence which caused the wetting of the street. So that you do depend in your daily life, in all the affairs of life, upon circumstantial evidence, using good sense in determining from it. You must use your own good judgment also here in weighing circumstances, use your own good sense and your own judgment.

If the circumstances do not point clearly, that is to say, beyond a reasonable doubt, toward the defendant as the one who committed the crime, he is entitled to the benefit of that reasonable doubt.

The People claim to have shown, first of all, the motive. The motive is only a link in the chain of evidence. We are likely to do that which the ordinary motives influencing mankind urge upon us and suggest that we do.

If the defendant was desirous of ridding himself

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of the deceased, is it not likely that he did rid himself of the deceased ? That is the contention of The People, and it is for you, as reasonable men, to weigh it and answer it.

Now, The People claim to have shown that the deceased came to her death as a result of a fractured skull, the skull fractured by a shoe-last. They claim to have shown that this shoe-last was the property of the defendant. They claim to have shown his proximity to the scene of the crime. I am not intending, gentlemen, to bring to your attention all the chain of evidence, but only enough to illustrate the law that applies. Now, if they have shown that, what inferences can you draw ?

Suppose the defendant with this shoe-last struck blow after blow upon the head of the deceased ? If he did that, why did he do it ? What was his motive ? Was it a design to kill ? You know we ordinarily intend to do the reasonable and probable consequences of our acts. If he struck a blow on the head capable of fracturing the skull, did he intend to kill ? What is the ordinary and probable effect of so heavy a blow upon the head with that sort of instrument ?

If he did this, that is to say, if he fractured

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the skull, did he do it from a design premeditated and deliberate ? There is the gist of the defimition, and upon that head, gentlemen, I am going to read you what our Court of Appeals has said.

Probably the best defimitions of murder in its first degree under our present law are to be found im the opinions im the cases of Leighton vs. The People and The People against Majone.

In the first case, Judge Danforth said:

"If the killing is not the instant effect of "impulse, if there is hesitation or doubt to overcome, "a choice made as the result of thought, however short "the struggle between the intention and the act, it is "sufficient to characterize the crime as deliberate and "premeditated murder."

In the second case, Judge Earl wrote:

"Under the Statute there must be not only an intention to kill, but there must also be a premeditated "and deliberate design to kill. Such design must "precede the killing by some appreciable space of time. "But the time need not be long. It must be sufficient "for some reflection and consideration upon the matter, "for a choice to kill or not to kill, and for the formation of a definite purpose to kill, and when the time is

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"sufficient for this it matters not how brief it is.
"The human mind acts with celerity which it is sometimes
"impossible to measure, and whether a deliberate and
"premeditated design to kill is formed must be deter-
"mined from all the circumstances of the case."

In other words, if this defendant determined to kill, and with that determination struck the blow, intending to kill, and the blow did kill, there may be predicated upon it murder in its first degree. Whether or not that is the crime is for you gentlemen, from all the facts and circumstances proved and found, to determine.

If not murder in its first degree, then was it murder in its second degree ?

Now, the distinction between murder in its first and murder in its second degree I may say is a shadow, but the law defines it as follows:

Murder in the second degree is the killing of a human being with a design to effect death, but without deliberation and premeditation.

If not murder at all, then determine whether it was manslaughter.

Homicide is manslaughter in its first degree when committed without a design to effect death. Now, mark

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you, there must be no design to effect death. A killing, then, without a design to effect death, in the heat of passion, ~~a~~t in a cruel and unusual manner.

If there was a killing in the heat of passion, but not by means of a dangerous weapon, nor by the use of means either cruel or unusual, and, I repeat, without any design to kill, the crime is manslaughter in its second degree.

Those, gentlemen, therefore, are the crimes submitted to you for your determination.

The defendant denies his guilt, and asserts that at the time and place in question he was not present. In other words, his defense is an alibi, that he was not there at all when this crime was committed. If you believe that, gentlemen, acquit the defendant, but weigh and determine the facts.

Are there any requests ?

MR. SINGERMAN: I request your Honor to charge the Jury that to convict upon circumstantial evidence they must -

THE COURT: Let me interrupt you before you proceed with your requests. I did not ask for your requests in advance, because I intended to bring to the Jury's attention whatever of law it seemed to me they

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ought to have, in order to properly determine the case. No doubt you prepared your requests with care, and no doubt I have in substance and in my homely yet, I think, forceful way brought them to the attention of the Jury; so don't let us repeat them.

MR. SINGERMAN: I will just make one request, if your Honor pleases.

THE COURT: Yes, certainly.

MR. SINGERMAN: That there must be positive proof of the facts from which the inference of guilt is to be drawn, and that inference must be shown to be the only one that can be reasonably drawn from the facts.

THE COURT: Yes. Now, gentlemen, the case is with you.

Is the defendant guilty, or not ? And, if so, is he guilty of murder in its first degree ? Did he, with a design to kill the deceased, from an intention both premeditated and deliberated, effect her death ? If you say yes, the crime is murder in the first degree.

If from a design to kill, but without premeditation and deliberation, he killed the deceased, the crime is murder in its second degree.

If not, is he guilty of manslaughter ?

He is guilty of manslaughter if he killed without

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any design to kill, and is guilty of manslaughter in its first degree if, in a cruel and unusual manner, and in the heat of passion, he killed; but if not by a dangerous weapon, nor by means cruel nor unusual, he killed, and without any design to kill, you may find him guilty of manslaughter in its second degree, or you may acquit him.

You may retire to determine the case.

(The Jury then retired, at 1:15 P. M.)

MR. WASSERVOGEL: These shoes, which are marked "People's Exhibit No. 9, for Identification", were received in evidence. Is there any objection to marking them in evidence ?

MR. SINGERMAN: No objection.

(Same marked "People's Exhibit No. 9", in evidence.)

(The Jury return to the Court room at 4:23 P. M.)

(The Clerk calls the roll of Jurors.)

THE CLERK OF THE COURT: Jurors will please rise. The defendant will rise. Jurors, look upon the defendant. Defendant, look upon the Jurors.

Gentlemen of the Jury, have you agreed upon a verdict ?

THE FOREMAN OF THE JURY: We have.

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THE CLERK OF THE COURT: How say you, gentlemen of the Jury ? Do you find the defendant guilty, or not guilty ?

THE FOREMAN OF THE JURY: We find the defendant guilty as charged in the indictment.

THE CLERK OF THE COURT: Harken unto your verdict as it stands recorded! You say you find the defendant guilty of murder in the first degree, whereof he stands indicted, and so say you all.

MR. SINGERMAN: I now move that the verdict be set aside, as being against the law, contrary to the evidence and the weight of evidence.

THE COURT: Would you prefer making your motion now, or reserving it until the time of sentence ? It is quite immaterial to me. I will hear you now if you wish.

MR. SINGERMAN: I was going to make my motion, and ask your Honor to defer the sentence.

THE COURT: Yes, very good, very good. You may do that.

MR. SINGERMAN: Well, I will defer the motions.

THE COURT: I have this in mind: It will give you time for further reflection and decision as to just what motions you wish to make; that is all.

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MR. SINGERMAN: Very well, then, I will defer my motion until the day fixed for sentence.

(The defendant is then duly sworn, and his pedigree taken.)

THE COURT: What day do you wish for sentence ?

MR. SINGERMAN: I would suggest Monday, your Honor, if that is agreeable.

THE COURT: Very good. The defendant will be remanded until Monday.

~~Amos G. Russell,~~

Official Stenographer.

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COURT OF GENERAL SESSIONS OF THE PEACE

IN AND FOR THE COUNTY OF NEW YORK,

PART FIVE.

THE PEOPLE OF THE STATE OF NEW YORK	Before
- against -	HON. WARREN W. FOSTER,
GREGORIO GIORDANO	Justice

New York, Wednesday, October 29th, 1913.

THE DEFENDANT IS INDICTED FOR MURDER IN THE FIRST DEGREE.

INDICTMENT FILED SEPTEMBER 19th, 1913.

Appearances:

ISIDOR WASSERVOGEL, Esq., Assistant District Atty.,

For The People.

S. A. SINGERMAN, Esq.,

For the Defendant.

THE DEFENDANT IS ARRAIGNED FOR SENTENCE BEFORE HON. WARREN W. FOSTER, J.

MR. WASSERVOGEL: If your Honor please, the State now moves that judgment be pronounced upon this defendant, Gregorio Giordano, in accordance with law.

THE CLERK OF THE COURT: Gregorio Giordano, have

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you any legal cause to show why judgment of death should not now be pronounced against you ?

THE DEFENDANT: (Through Official Interpreter, Diadato Villamena) I am innocent.

MR. SINGERMAN: The defendant moves for a new trial, upon the following grounds:

First, because the Court erred in not advising the Jury to acquit the defendant.

Second, because the verdict is contrary to law.

Third, because the verdict is against the evidence in the case.

Fourth, because the verdict is against the weight of evidence.

Fifth, because the Court at the trial admitted illegal and improper evidence over the defendant's objections, and excluded legal evidence offered by him.

Sixth, that no criminal cause of action is establishe by legal proof against the defendant.

THE COURT: Your motion is in all respects denied.

MR. SINGERMAN: Exception. Now, the defendant moves in arrest of judgment, upon the following grounds:

First , because the facts stated in the indictment do not constitute a crime; and,

Second, upon all the foregoing grounds, it is submitted the judgment in this case should be annuled.

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THE COURT: Your motion is again and in all respects denied.

MR. SINGERMAN: Exception.

THE COURT: Are you ready for the Court to proceed?

MR. SINGERMAN: Yes, sir.

THE COURT: Gregorio Giordano, it is not within the discretion or power of the Court to abate one jot or one tittle of the punishment which the law provides for the offence of which you stand convicted.

After a fair trial, in which you were represented by gentlemanly, honorable and able Counsel, you were convicted of murder, the slaying of your wife from base motives and in a cruel and unusual manner.

The law fixes the penalty for this crime. It remains, therefore, for me to pronounce the formal judgment of the Court, which is that you, Gregorio Giordano, for the murder in the first degree of Salvatora Giordano, whereof you are convicted, be and you hereby are sentenced to the punishment of death, and it is ordered that within ten days after this session of the Court the Sheriff of the County of New York deliver you, together with the Warrant of this Court, to the agent and Warden of the State prison of the State of New York at Sing Sing, where you shall be kept in solitary confinement until the week beginning Monday, the 8th day of December, 1913,

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and upon some day within the week so appointed, the said Agent and Warden of the State prison of the State of New York at Sing Sing is commanded to do execution upon you, Gregorio Giordano, in the mode and manner prescribed by the laws of the State of New York.

THE DEFENDANT: (Through Official Interpreter, Diadato Villamena) I am sentenced to death. I do not care much for my life, but I am innocent. If I was not innocent, I would not look for my wife the day after she disappeared. The pocket-book I told was red, and not black. I don't care for my life. I am willing to die.

Amos G. Russell,

Official Stenographer.

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COURT OF GENERAL SESSIONS OF THE PEACE

IN AND FOR THE COUNTY OF NEW YORK

PART FIVE.

THE PEOPLE OF THE STATE OF NEW YORK	Before
- against -	HON. WARREN W. FOSTER, J.
GREGORIO GIORDANO	And a Jury.

New York, Wednesday, October 15th, 1913.

THE DEFENDANT IS INDICTED FOR MURDER IN THE FIRST DEGREE.

INDICTMENT FILED SEPTEMBER 19th, 1913.

Appearances:

ISIDOR WASSERVOGEL, Esq., Assistant District Attorney,

For The People.

S. A. SINGERMAN, Esq.,

For the Defendant.

The defendant is arraigned at the bar.

THE CLERK OF THE COURT: Gregorio Giordano, if you desire to challenge an individual juror, you must do so when he appears and before he is sworn. Do you waive the further giving of this notice ?

MR. SINGERMAN: Yes.

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C H A R L E S B . N E W T O N, being first duly sworn and examined on the voir dire, testified as follows:

THE COURT: Now, before you undertake the examination of these Talesmen, gentlemen, I am going to make a suggestion in the interest of efficiency of judicial action and economy of time in the selection of the Jury. I am going to put to this Talesman, and I direct the Stenographer to take them down, certain questions. These questions I wish every member of the panel to hear. They will be repeated by the Stenographer to each of you as you take the stand, and you will be expected to answer them. Having been answered once, you gentlemen will please not repeat the questions which I ask. You have the information once, and that is quite enough. I shall ask you, Mr. District Attorney, when you begin to question this talesman, to state briefly the facts about which you wish to examine each talesman, and then ask this talesman whether he heard ~~it~~ your statement, and ask such other questions as you wish concerning the facts, so that it will not be necessary for you to give inextenso your statement of the facts more than once to this entire body of talesmen, and the same thing I say to you, Mr. Defendant's Counsel, to the end that there may be no unnecessary repetition in the selection of a jury.

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BY THE COURT.

Q State your name, age, residence and occupation, Mr. Talesman ? A Charles B. Newton; age sixty-six; residence 62 West Ninety-fifth Street; business, treasurer.

Q Of what ? A Business Realty Company.

Q Have you ever before sat as a juror in a criminal case ? A Yes, sir.

Q Have you ever before sat as a juror in a homicide case ? A Yes, sir.

Q Do you entertain any such conscientious opinions touching the infliction of the death penalty as to preclude you from acting as a juror in a capital case ? A I do not.

THE COURT: Now, gentlemen, these questions will be asked of each one of you, and I must ask that you will make your answers audibly, speak loudly. Unless you are accustomed to speaking to many people, I think you may be frightened at the sound of your own voice, and, therefore, try to keep it within your own body; it is a habit witnesses always have. We are asking questions that we may get your answers. We can't get them unless you speak audibly. Now, you may proceed.

MR. WASSERVOGEL: I think, if your Honor will suggest a question referring to circumstantial evidence, which both sides will agree to, we can save time.

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THE COURT: Yes, I am quite willing to do that. Circumstantial evidence has been defined as evidence of surrounding circumstances, from which the inference of the guilt of the defendant might be drawn.

Q Do you understand the meaning of the term "circumstantial evidence", Mr. Talesman ? A Yes, sir.

Q Do you entertain any prejudice against that class of evidence ? A No, sir.

Q If such evidence pointed to the guilt of the defendant, and established his guilt beyond a reasonable doubt, would you hesitate to pronounce him guilty ?

A Beyond a reasonable doubt, no, sir.

Q That was a part of the question - if it proved beyond a reasonable doubt his guilt, would you hesitate to pronounce him guilty ? A No.

MR. WASSERVOGEL: May I say, if your Honor pleases, for the benefit of the panel, that the name of this defendant, gentlemen, is Gregorio Giordano. He has been indicted upon a charge of murder im its first degree. It is claimed that on the night of the 10th of August of the present year he accompanied his wife from their home, at 137 Mott Street, and took her to a place called Inwood, which is near Two Hundred and Seventh Street, and there, in a lonely road, known as the Upper Road, he struck her down with an iron shoe

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last. He took this shoe last and struck her om the head with it, and then almost severed her head with a knife which he had in his possession.

BY MR. WASSERVOGEL.

Q Are you acquainted, Mr. Newtom, with Counsel for the defense ? A No, sir.

Q Of course, you don't know the defendant ? A No, sir.

Q You have not heard about this case ? A No, sir.

Q Are you willing to take the instructions of the Court on all matters of law ? A Yes.

MR. WASSERVOGEL: No challenge for cause.

MR. SINGERMAN: I might state, for the benefit also of the panel, if your Honor pleases, that the defendant is an Italian laborer, and his defense is that he had no hand whatsoever in the killing of his wife, and was not within a radius near enough to be charged even with the commission of the crime.

CROSS EXAMINATION BY MR. SINGERMAN.

Q Have you any prejudice against the Italian race ? A No, sir.

Q And the mere fact that there are many Italians known to belong to a so-called Black Hand gang, or other tough gangs that infest the City, would that in itself have any bearing upom your judgment in this case ? A No, sir.

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MR. SINGERMAN: No challenge.

MR. WASSERVOGEL: Satisfactory to The People.

MR. SINGERMAN: Satisfactory to the Defense.

(The Juror is accordingly duly sworn, taking seat number one in the Jury box.)

F R A N K B. B R O W N, being first duly sworn and examined on the voir dire, testified as follows:

BY THE STENOGRAPHER.

Q State your name, age, residence and occupation ?

A Frank B. Brown, age thirty-four, residence 523 West One Hundred and Fifty-seventh Street; occupation, architect.

Q Have you ever before sat as a juror in a criminal case ? A No.

Q Have you ever before sat as a juror in a homicide case ? A No.

Q Do you entertain any such conscientious opinions touching the infliction of the death penalty as to preclude you from acting as a juror in a capital case ? A No.

Q Do you understand the meaning of the term "circumstantial evidence" ? A Yes.

Q Do you entertain any prejudice against that class of evidence ? A No.

Q If such evidence pointed to the guilt of the defend-

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amt, and established his guilt beyond a reasonable doubt, would you hesitate to pronounce him guilty ? A No.

BY MR. WASSERVOGEL.

Q Are you acquainted with the Counsel in this case ? A No.

Q You have not heard about the case, or read of it ? A I recall slightly of reading of it in the newspapers at the time.

Q It made no impression on you in any way ? A No.

Q You know of no reason, do you, why you cannot give a fair and impartial trial to this defendant, and also to The People of the State, do you ? A No.

Q And be fair to both sides ? A Yes.

MR. WASSERVOGEL: No challenge for cause.

CROSS EXAMINATION BY MR. SINGERMAN.

Q Are you acquainted with Mr. Wasservogel, the prosecuting attorney who has charge of this case ? A No.

Q Are you acquainted with any of the District Attorneys ? A Not to my knowledge.

MR. SINGERMAN: I might say, your Honor, we will save time by using that same form of question that I asked the former witness, about a prejudice against the Italian race.

THE COURT: Certainly.

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BY THE STENOGRAPHER.

Q Have you any prejudice against the Italian race ? A Not as a race, no.

Q And the mere fact that there are many Italians known to belong to a so-called Black-Hand gang, or other tough gangs that infest the City, would that in itself have any bearing upon your judgment in this case ? A No.

MR. SINGERMAN: The Juror is satisfactory.

MR. WASSERVOGEL: Satisfactory to The People.

(The Juror is accordingly duly sworn, taking seat No. 2 in the Jury box.)

C L A R E N C E D . F O R D, being first duly sworn and examined on the voir dire, testified as follows:

BY THE STENOGRAPHER.

Q State your name, age, residence and occupation ? A Clarence D. Ford, age forty-five, residence 526 West One Hundred and Thirteenth Street, occupation salesman.

Q Have you ever before sat as a juror in a criminal case ? A Yes.

Q Have you ever before sat as a juror in a homicide case ? A Yes.

Q Do you entertain any such conscientious opinions touching the infliction of the death penalty as to preclude you from acting as a juror in a capital case ? A No.

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Q Do you understand the meaning of the term "circumstantial evidence" ? A Yes.

Q Do you entertain any prejudice against that class of evidence ? A No.

Q If such evidence pointed to the guilt of the defendant, and established his guilt beyond a reasonable doubt, would you hesitate to pronounce him guilty ? A No.

Q Have you any prejudice against the Italian race ? A No.

Q And the mere fact that there are many Italians known to belong to a so-called Black-Hand gang, or other tough gangs that infest the City, would that in itself have any bearing upon your judgment in this case ? A No.

BY MR. WASSERVOGEL.

Q Are you acquainted with the Counsel for the defense, Mr. Ford ? A I am not.

Q Have you read or heard about this case ? A I have a casual recollection of it; I read it casually.

Q That formed no impression on your mind ? A It did not.

Q Do you know any reason why you cannot try this case fairly to both sides, to The People and the defendant ? A No, sir.

CROSS EXAMINATION BY MR. SINGERMAN.

Q Are you acquainted with Mr. Wasservogel, who is

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prosecuting this case for the State ? A No, sir.

Q Are you acquainted with any of the District Attorneys of the County of New York ? A Casual acquaintance with one or two of them.

Q That of itself would not have any bearing on your judgment in this case ? A It would not.

MR. SINGERMAN: The Juror is satisfactory.

MR. WASSERVOGEL: Satisfactory.

(The Juror is accordingly duly sworn, taking seat number three in the Jury box.)

P E R C Y B. R I G B Y, being first duly sworn and examined on the voir dire, testified as follows:

BY THE STENOGRAPHER.

Q State your name, age, residence and occupation ? A Percy B. Rigby, age forty, occupation wholesale florist, residence Hotel Colonial, 51 West Eighty-first Street.

Q Have you ever before sat as a juror in a criminal case ? A No.

Q Have you ever before sat as a juror in a homicide case ? A No.

Q Do you entertain any such conscientious opinions touching the infliction of the death penalty as to preclude you from acting as a juror in a capital case ? A No.

Q Do you understand the meaning of the term "circum-

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stantial evidence ? A Yes.

Q Do you entertain any prejudice against that class of evidence ? A No.

Q If such evidence pointed to the guilt of the defendant, and established his guilt beyond a reasonable doubt, would you hesitate to pronounce him guilty ? A No.

Q Have you any prejudice against the Italian race ? A No.

Q And the mere fact that there are many Italians known to belong to a so-called Black-Hand gang, or other tough gangs that infest the City, would that in itself have any bearing upon your judgment in this case ? A No.

BY MR. WASSERVOGEL.

Q Mr. Rigby, are you acquainted with Counsel for the Defense ? A No, sir.

Q Do you know of any reason why you cannot make a fair and impartial juror in this case, fair to both sides ? A No, sir.

CROSS EXAMINATION BY MR. SINGERMAN.

Q Are you acquainted with Mr. Wasservogel, the prosecutor in this case ? A No, sir.

Q Acquainted with any of the District Attorneys connected with the County of New York ? A Very well acquainted with Assistant District Attorney Mr. Frank Moss.

Q That acquaintanceship in itself would not warp your

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judgment in the slightest in this case, would it, and have any bearing on it ? A No.

MR. SINGERMAN: The Juror is satisfactory.

MR. WASSERVOGEL: Satisfactory.

(The Juror is accordingly duly sworn, taking seat number four in the Jury box.)

J O S E P H M . W O L F, being first duly sworn and examined on the voir dire, testified as follows:

BY THE STENOGRAPHER.

Q State your name, age, residence and occupation ?

A Joseph M. Wolf, age fifty-three, residence 229 West One Hundred and Fifth Street, occupation cotton goods merchant.

Q Have you ever before sat as a juror in a criminal case ? A Yes.

Q Have you ever before sat as a juror in a homicide case ? A Yes.

Q Do you entertain any such conscientious opinions touching the infliction of the death penalty as to preclude you from acting as a juror in a capital case ? A No.

Q Do you understand the meaning of the term "circumstantial evidence" ? A I do.

Q Do you entertain any prejudice against that class of evidence ? A No.

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Q If such evidence pointed to the guilt of the defendamt, and established his guilt beyond a reasonable doubt, would you hesitate to pronounce him guilty ? A I would not.

Q Have you any prejudice against the Italian race ? A No.

Q And the mere fact that there are many Italians known to belong to a so-called Black-Hand gang, or other tough gangs that infest the City, would that in itself have any bearing upom your judgment in this case ? A No.

BY MR. WASSERVOGEL.

Q Are you acquainted with Counsel, Mr. Wolf ? A No.

Q You are willing to give both sides a fair trial, I take it ? A Yes, sir.

CROSS EXAMINATION BY MR. SINGERMAN.

Q Acquainted with Mr. Wasservogel, who is prosecuting this case ? A No, sir.

MR. SINGERMAN: Satisfactory to the defendant.

MR. WASSERVOGEL: Satisfactory.

(The Juror is accordingly duly sworn, taking seat number five in the Jury box.)

J E R O M E B . L A T O U R, being first duly sworn and examined om the voir dire, testified as follows:

BY THE STENOGRAPHER.

Q State your name, age, residence and occupation ?

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A Jerome B. Latour, age fifty-ome, residence 609 West One Hundred and Fourteenth Street, occupation publishing business.

Q Have you ever before sat as a juror in a criminal case ? A Yes.

Q Have you ever before sat as a juror in a homicide case ? A Yes, sir.

Q Do you entertain any such conscientious opinions touching the infliction of the death penalty as to preclude you from acting as a juror in a capital case ? A No.

Q Do you understand the meaning of the term "circumstantial evidence" ? A Yes.

Q Do you entertain any prejudice against that class of evidence ? A No.

Q If such evidence pointed to the guilt of the defendant, and established his guilt beyond a reasonable doubt, would you hesitate to pronounce him guilty ? A No.

Q Have you any prejudice against the Italian race ? A No.

Q And the mere fact that there are many Italians known to belong to a so-called Black-Hand gang, or other tough gangs that infest the City, would that in itself have any bearing upon your judgment in this case ? A No.

BY MR. WASSERVOGEL.

Q You are not acquainted with Counsel for the Defense ? A I am not.

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Q You are not acquainted with me, of course ? A No.

Q You would make a fair juror in this case, fair to both sides ? A I think so.

MR. WASSERVOGEL: Satisfactory.

MR. SINGERMAN: Satisfactory to the Defense.

(The Juror is accordingly duly sworn, taking seat number six.)

A L E X A N D E R E . D U G A S, being first duly sworn and examined on the voir dire, testified as follows:

BY THE STENOGRAPHER.

Q State your name, age, residence and occupation ? A Alexander E. Dugas, age twenty-nine, residence 839 West One Hundred and Seventy-ninth Street, occupation advertising artist.

Q Have you ever before sat as a juror in a criminal case ? A No.

Q Have you ever before sat as a juror in a homicide case ? A No.

Q Do you entertain any such conscientious opinions touching the infliction of the death penalty as to preclude you from acting as a juror in a capital case ? A No.

Q Do you understand the meaning of the term "circumstantial evidence" ? A Yes.

Q Do you entertain any prejudice against that class

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of evidence ? A No.

Q If such evidence pointed to the guilt of the defendant, and established his guilt beyond a reasonable doubt, would you hesitate to pronounce him guilty ? A No.

Q Have you any prejudice against the Italian race ? A No.

Q And the mere fact that there are many Italians known to belong to a so-called Black-Hand gang, or other tough gangs that infest the City, would that in itself have any bearing upon your judgment in this case ? A No.

BY MR. WASSERVOGEL.

Q You are not acquaimted with Counsel for the Defense, are you, Mr. Dugas ? A No.

Q You are not acquaimted with me ? A No.

Q You are willing to be a fair juror in this case, fair to both sides, I take it ? A Yes, sir.

MR. WASSERVOGEL: Satisfactory.

MR. SINGERMAN: Satisfactory to the defendant.

(The Juror is accordingly duly sworn, taking seat number seven.)

O T T O K O E N I G, being first duly sworn and examined on the voir dire, testified as follows:

BY THE STENOGRAPHER.

Q State your name, age, residence and occupation ?

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A Otto Koenig, age forty-eight, residence 38 West Ninth Street, occupation publisher.

Q Have you ever before sat as a juror in a criminal case ? A No.

Q Have you ever before sat as a juror in a homicide case ? A No.

Q Do you entertain any such conscientious opimions touching the infliction of the death penalty as to preclude you from acting as a juror in a capital case ? A No, sir.

Q Do you understand the meaning of theterm "circumstantial evidence" ? A Yes, sir.

Q Do you entertaim any prejudice against that class of evidence ? A No.

Q If such evidence pointed to the guilt of the defendant, and established his guilt beyond a reasonable doubt, would you hesitate to pronounce him guilty ? A No.

Q Have you any prejudice against the Italian race ? A No.

Q And the mere fact that there are many Italians known to belong to a so-called Black-Hand gang, or other tough gangs that infest the City, would that in itself have any bearing upon your judgment in this case ? A No.

BY MR. WASSERVOGEL.

Q You are not acquainted with the Defendant"s Counsel,

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are you, Mr. Koenig ? A No, sir.

Q And you are not acquainted with me ? A No, sir.

Q You know of no reason, do you, why you cannot make a fair and impartial juror in this case, fair to both sides ? A No.

MR. WASSERVOGEL: Satisfactory.

MR. SINGERMAN: The Defense challenges this Juror peremptorily.

L E M U E L N . H U M L E Y, being first duly sworn and examined on the voir dire, testified as follows:

BY THE STENOGRAPHER.

Q State your name, age, residence and occupation ? A Lemuel N. Humley, age forty-six, residence 526 West One Hundred and Seventy-third Street, occupation insurance.

Q Have you ever before sat as a juror in a criminal case ? A No.

Q Have you ever before sat as a juror in a homicide case ? A No.

Q Do you entertain any such conscientious opinions touching the infliction of the death penalty as to preclude you from acting as a juror in a capital case ? A No.

Q Do you understand the meaning of the term "circumstantial evidence" ? A Yes.

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Q Do you entertain any prejudice against that class of evidence ? A I do not.

Q If such evidence pointed to the guilt of the defendant, and established his guilt beyond a reasonable doubt, would you hesitate to pronounce him guilty ? A No.

Q Have you any prejudice against the Italian race ? A No.

Q And the mere fact that there are many Italians known to belong to a so-called Black-Hand gang, or other tough gangs that infest the City, would that in itself have any bearing upon your judgment in this case ? A No.

BY MR. WASSERVOGEL.

Q Mr. Hunley, are you acquainted with the defendant's Counsel ? A No, I am not.

Q And you are not acquaimted with me ? A No.

Q You can make a fair and impartial juror in this case, I take it, fair to both sides ? A Yes.

MR. WASSERVOGEL: Satisfactory.

MR. SINGERMAN: The Juror is satisfactory to the defense.

(The Juror is accordingly duly sworn, taking seat number eight.)

J U L I A N S T E R L I N G, being first duly sworn and examined on the voir dire, testified as follows:

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BY THE STENOGRAPHER.

Q State your name, age, residence and occupation ? A Julian Sterling, age forty-one, residence 2322 Andrews Avenue, occupation representative of J. D. Johnson Company, New York.

Q Have you ever before sat as a juror in a criminal case ? A No.

Q Have you ever before sat as a juror in a homicide case ? A No.

Q Do you entertain any such conscientious opinions touching the infliction of the death penalty as to preclude you from acting as a juror in a capital case ? A No.

Q Do you understand the meaning of the term "circumstantial evidence" ? A Yes.

Q Do you entertain any prejudice against that class of evidence ? A No.

Q If such evidence pointed to the guilt of the defendant, and established his guilt beyond a reasonable doubt, would you hesitate to pronounce him guilty ? A No.

Q Have you any prejudice against the Italian race ? A None.

Q And the mere fact that there are many Italians known to belong to a so-called Black-Hand gang, or other tough gangs that infest the City, would that in itself have any bearing upon your judgment in this case ? A No.

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BY MR. WASSERVOGEL.

Q Mr. Sterling, are you acquainted with Counsel for the Defense ? A No, sir.

Q And you are not acquaimted with me ? A No, sir.

Q You can make a fair Juror in this case to both sides, I take it ? A Yes, sir.

MR. WASSERVOGEL: Satisfactory.

CROSS EXAMINATION BY MR. SINGERMAN.

Q You say you are connected with the firm of J. D. Johnson & Company ? A Yes, sir.

Q What is the nature of their business ? A Plumbing Supply House.

MR. SINGERMAN: The Juror is satisfactory.

(The Juror is accordingly duly sworn, taking seat number nine.)

F R A N K L . C O P E M A N, being first duly sworn and examined on the voir dire, testified as follows:

BY THE STENOGRAPHER.

Q State your name, age, residence and occupation ?

A Frank L. Copeman, age forty-seven years, residence 388 Manhattan Avenue; I am in the jewelry business.

Q Have you ever before sat as a juror in a criminal case ? A No, sir.

Q Have you ever before sat as a juror in a homicide

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case ? A No, sir.

Q Do you entertain any such conscientious opinions touching the infliction of the death penalty as to preclude you from acting as a juror in a capital case ? A No.

Q Do you understand the meaning of the term "circumstantial evidence" ? A Yes.

Q Do you entertain any prejudice against that class of evidence ? A No.

Q If such evidence pointed to the guilt of the defendant, and established his guilt beyond a reasonable doubt, would you hesitate to pronounce him guilty ? A No.

Q Have you any prejudice against the Italian race ? A No.

Q And the mere fact that there are many Italians known to belong to a so-called Black-Hand gang, or other tough gangs that infest the City, would that in itself have any bearing upon your judgment in this case ? A None.

BY MR WASSERVOGEL.

Q Mr. Copeman, are you acquainted with Counsel for the Defense ? A No.

Q You are not acquainted with me, of course ? A No.

Q You know of no reason why you cannot make a fair and impartial juror in this case ? A No.

Q Fair to both sides ? A Yes, sir.

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CROSS EXAMINATION BY MR. SINGERMAN.

Did I understand you are in the jewelry business ?

A Yes, sir.

Q Wholesale, or retail ? A I just buy and sell at auction sales.

Q Do you sell on the installment plan ? A No.

Q Do you deal with Italians to any degree ? A No.

MR. SINGERMAN: The Juror is satisfactory.

MR. WASSERVOGEL: Satisfactory.

(The Juror is accordingly duly sworn, taking seat number ten.)

D A V I D S I L V E R, being first duly affirmed and exmined on the voir dire, testified as follows:

BY THE STENOGRAPHER.

Q State your name, age, residence and occupatiom ?

A David Silver, forty-four years old, residence 801 West End Avenue, manufacturer of artificial flowers.

Q Have you ever before sat as a jiror in a criminal case ? A Yes, sir.

Q Have you ever before sat as a juror in a homicide case ? A Yes, sir.

Q Do you entertain any such conscientious opinions touching the infliction of the death penalty as to preclude you from acting as a juror in a capital case ? A No, sir.

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Q Do you understand the meaning of the term "circumstantial evidence" ? A I do.

Q Do you entertain any prejudice against that class of evidence ? A No, sir.

Q If such evidence pointed to the guilt of the defendant, and established his guilt beyond a reasonable doubt, would you hesitate to pronounce him guilty ? A No.

Q Have you any prejudice against the Italian race ? A No, sir.

Q And the mere fact that there are many Italians known to belong to a so-called Black-Hand gang, or other tough gangs that infest the City, would that in itself have any bearing upon your judgment in this case ? A No, sir.

BY MR. WASSERVOGEL.

Q Mr. Silver, are you acquainted with Counsel for the Defense ? A No, sir.

Q You are not acquainted with me ? A No, sir.

Q Do you know of any reason why you cannot be a fair and impartial juror in this case ? A I do not.

MR. WASSERVOGEL: Satisfactory.

MR. SINGERMAN: Satisfactory to the Defense.

(The Juror is accordingly duly affirmed, taking seat number eleven.)

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P H I L I P H E R R L I C H, being first duly sworn and examined on the voir dire, testified as follows:

BY THE STENOGRAPHER.

Q State your name, age, residence and occupation ?

A Philip Herrlich, age fifty-seven, residence 153 East Ninety-first Street, occupation real-estate.

Q Have you ever before sat as a juror in a criminal case ?

A Yes, sir.

Q Have you ever before sat as a juror in a homicide case ? A Yes, sir.

Q Do you entertain any such conscientious opinions touching the infliction of the death penalty as to preclude you from acting as a juror in a capital case ? A No.

Q Do you understand the meaning of the term "circumstantial evidence" ? A Yes.

Q Do you entertain any prejudice against that class of evidence ? A None.

Q If such evidence pointed to the guilt of the defendant, and established his guilt beyond a reasonable doubt, would you hesitate to pronounce him guilty ? A No.

Q Have you any prejudice against the Italian race ?

A No.

Q And the mere fact that there are many Italians known to belong to a so-called Black-Hand gang, or other tough gangs that infest the City, would that in itself have any bearing upon your judgment in this case ? A No.

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BY MR. WASSERVOGEL.

Q Mr. Herrlich, are you acquainted with the Defendant's Counsel in this case ? A No, sir.

Q You are not acquainted with me, of course ? A No, sir.

Q Do you know of any reason why you cannot be a fair and impartial juror in this case ? A No.

MR. WASSERVOGEL: Satisfactory.

MR. SINGERMAN: The Juror is satisfactory to the Defense.

(The Juror is accordingly duly sworn, taking seat number twelve.)

THE COURT: (To the Jury) Gentlemen, do not talk about this case, nor permit anyone to talk to you about it, nor form nor express any opinion thereon, until the case shall finally be submitted to you. The District Attorney having assured me that the other case which is on trial will take all day, I wont require you to sit here in idleness during the day. You must come here tomorrow morning, gentlemen, at ten-thirty, when I hope we will undertake the case in which you have been impanelled. All the rest of you are excused without date.)

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