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MR. WASSERVOGEL: I think, if Your Honor please, I will file with Your Honor at this time our affidavits in opposition, so you may have them before you.

NELLIE De CARLO, called as a witness, being duly sworn and examined, testified as follows:

DIRECT EXAMINATION BY MR. WYLIE:

(Residence 243 Mulberry Street).

Q Where did you live May 3rd, 1913? A 243 Mulberry Street.

Q Did you testify on the trial of the State against Oreste Shilitane the latter part of February, 1914? A Yes I did.

Q You were a witness for the State? A Yes.

Q Did you make an affidavit in the office of the New York World on March 8th, 1915? A Yes.

Q I wish you would look at that affidavit and read it, and tell me if that is the affidavit you signed in the office of the New York World on the day mentioned?

(The witness reads the paper handed to her by counsel).

BY MR. WYLIE:

Q Is that the affidavit you swore to? A Yes, sir, I did.

Q Did you make an affidavit in the office of Martin W. Littleton in the latter part of July, in the Singer Building? A Yes.

Q Is that the affidavit -- you need not bother reading it -- just look at the signature? A Yes, sir.

Q Look at your signature over the page? A Yes, sir.

Q Do you remember where you were on the evening of May 5th, 1913? A Yes.

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Q The Monday after the shooting, almost in front of your house? A Yes, sir.

Q Where were you? A I was away.

Q Where? A The fifth day? --

Q No, May 5th, that was the Monday after the shooting?

A Oh, I was home.

Q Did you see two men that night? A Yes, sir.

Q Describe that interview?

MR. WASSERVOGEL: What interview?

MR. WYLIE: The night of May 5th.

THE WITNESS: I was sitting near my stoop and two detectives came over and spoke to me -- is that what you want to know?

Q Yes? A I was sitting there reading a paper and they came over to me and said to me "Good evening." I said "Good evening." They said "Do you know anything about the shooting match that went on Saturday evening?" I said "No, sir, I don't." They said to me "Get up and step inside the grocery store", which I did, and I went in and Leo took me in. He said to me "Sit down." I took a seat and he said to me "Now I want you to do just as we tell you." I said "All right" -- I said "Well, what do you want me to do." He said "I want you to tell us -- I want you to do and say everything we tell you." I said "Why should I. No, I won't say nothing only what I know." They said to me "You got to say everything we tell you." I said "All right." They got me scared and they

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said to me "I want you to say that you had seen the father hand the son a shiny object." I said "All right." And so after that they said "I want you to say that you were looking out of the window, that you had seen the whole shooting done." So I said "No, I won't tell a lie, why should I lie like that", and one of them slapped me in the face, that was Degilio, and Leo turned around and said "If you don't say it, we will kill you." I said "Why should you kill me, I didn't do no harm." He said "You have to do it, if you don't, we will kill you." And they said to me, "Go upstairs." One came upstairs and said "Put on your hat, you are going to go with me." I said "No, I won't go with you, why should I" -- "Put on your hat and coat, and you are going to come with me." I said "Where are you going to take me" and they said "To Headquarters", and they took me down to Headquarters and they said to me -- took me in Commissioner Dougherty's room and Commissioner Waldo, and they said to me -- the Commissioner asked me if I knew anything. I said "No, sir, I don't", and the Inspector asked me that and I said "I don't", and they said to me "You have to -- you must know something if they took you here." I said "Yes, of course what they want me to say and that is why I come here", and so I went there and they told me -- I said what they told me, and there was some gentleman there writing something, I don't know what he was writing, but he was writing something down. He was taking an affidavit, I suppose, and after that they took me into a room, Leo and Degilio, took me in a room and sat me on a chair, and all of a sudden I saw myself go all up-

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they sat me on a chair and all of a sudden I went up with the chair and I came down all of a sudden and I fell unconscious -- I fell unconscious for almost a few hours and I had all pains all over my body, and then after that I went home and told my mamma, I said "Mamma, you don't know what they done to me, they took me to Headquarters and put me on a chair and they made me go to the ceiling and bounced me down all of a sudden, and after that I went down again and I met this Leo Degilio again downstairs in the grocery store. He did not speak to me at all. I went in there and I said "Let me have five cents worth of tea", and I went in there and he said to me "Don't forget to come to-morrow morning." I went and he came next morning, and three of them came and took me and they took me and brought me to Mrs. Isabella Goodwin's house in Charles Street, 136, and I went there and Mrs. Goodwin was not in. Her daughter was in, rather, and her daughter said to me "Who is this young lady", says to Degilio. He said "This is a witness in the case", and after I think about an hour, Mrs. Goodwin arrived and her daughter spoke to the mother and she said "This is a girl one of the detectives brought here, she is a witness for some case", and Mrs. Goodwin asked me what is the trouble and what was it all about, and I told her all about it, but did not tell her I was lying. I told her just what they told me to say.

Q Who were the two detectives you saw first? A Leo and Degilio.

Q Who was the other man? A Only two.

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Q What is Leo's last name? A Gambardella.

Q Do you remember whom you saw the first time you were taken to Police Headquarters? A Yes, sir, Commissioner Dougherty and Commissioner -- Inspector Fauret and Commissioner Dougherty, these were the two first I met.

Q Were there any other men there? A There was a young man there writing something while I was speaking there, and Leo and Degillie there with me too.

Q They were both in the room? A Yes.

Q Any one else there? A No, sir, I don't remember if there was any one else.

Q What did Inspector Fauret say to you? A He asked me what I know. I told him. I told him just what they told me to say, what I stated, and some one was writing it down.

Q You told him what they, meaning the detectives, had told you to say? A No, I did not tell him that, of course, not -- I just repeated what they had told me to say.

Q Did you ever tell Mrs. Goodwin that Leo and Degillie had asked you to tell a certain story? A No, I never told Mrs. Goodwin nothing, never -- never told her anything. I only told her what I had said -- what they had told me to say, but never told Mrs. Goodwin I was lying.

Q Tell me again what they told you to say? A They told me to say that I had seen the father hand the son a shiny object. They told me to say I had seen -- what is his name -- paper box kid coming out of the poolroom eating a sandwich. They told me every-

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thing I said, they told me to say.

Q What else did they tell you? A They told me I was looking out of the window and they told me to say I was looking out of the window and saw Rizzo coming out of the poolroom eating a sandwich.

Q Then what? A Then I seen Heeney come along and Paper Box Kid shot him.

Q That was what they told you to say? A Yes, sir, that was what they told me to say.

Q Did they tell you to say that you saw Shilitano shoot Teare or Heeney? A Yes, sir, they did, they told me to say it.

Q Both officers? A Yes, sir, both of them.

Q Did you say that? A Yes, sir, I did.

Q How long did you stay with Mrs. Goodwin? A Ten months.

Q All of that time in Charles Street? A No, three months in Charles, and the rest of the time in Brooklyn, 136 Montague Street.

Q Did you ever go out of the house alone? A No, always with Mrs. Goodwin.

Q Did her daughter ever go with you? A Yes, sir.

Q Any one else? A No, sir, no one else.

Q Did Mrs. Goodwin ever take you to see the District Attorney? A Yes, sir, many times.

Q What did you tell Mr. Wasservogel when you saw him first? A Just what they told me to say I told him.

Q How long were you with Mrs. Goodwin? A Ten months.

Q Until after the trial? A Yes.

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Q Did you know Oreste Shilitano? A Yes, I know him.

Q To speak to? A No, sir. Knew him by sight.

Q Where did he live? A 241 Mulberry street.

Q That was next door to you? A Yes, sir.

Q Did you know any of his family? A Yes, sir, I know his mother and father.

Q Did you know them to speak to? A Yes, sir -- well, we used to live in the house they used to be the landlord of.

Q Where were you at the time the shooting took place? A I was sleeping.

Q In your room? A Yes, sir.

Q Did you see anything connected with it? A No, sir.

Q Did you hear anything connected with it? A No, sir.

Q When did you first know of it? A What?

Q When did you first hear of it? A The shooting match -- oh, I heard it the following morning.

Q Are you a Catholic? A Yes, sir, a Roman Catholic.

Q Did you go to communion after you testified on the stand?
A Yes, sir.

Q Were you refused communion? A Yes, sir, I was several times.

Q Why? A Because I did not tell the truth.
confessor

Q Did you tell your ~~priest~~ you did not tell the truth?

A Yes, sir, I did.

Q What did he tell you to do? A To go to court and see the Judge and tell the Judge everything they told me to say. So I

said "Yes, Father, I will" and so I thought probably I would go to court, and of course I did not go to court but went direct to the World.

Q Who told you to go to the office of the World? A Nobody, I went there myself.

Q Who went with you? A Papa.

Q What happened when you got there? A I got there and I spoke to some German, of course, and told him all about it, and told him two detectives had made me lie. I told him all about it.

Q Did they ask you many questions? A Yes, sir, they did.

Q Did you go back the next day? A Where?

Q Did you go back to the office of the World the next day?

A Yes, sir, I did; I went back there. I went there Sunday afternoon and went there Monday again.

Q And you signed that affidavit or statement on Monday?

A Yes, sir, I did on Monday.

Q Were you asked at that time any questions about the shooting? A What is that?

Q Were you asked many questions before you signed that paper? A Yes, sir.

Q Did you tell them the whole story? A Yes, sir, I did, just exactly what the police told me.

Q Everything you have told here? A Yes, sir, just exactly.

Q Do you remember anything else you told them you have forgotten? A No, sir, I did not.

Q Do you remember coming to the office of Martin W. Little-

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ten? A Yes, sir.

Q Were you asked then whether you had anything to add or take away from the affidavit you had made in the office of the World? A Yes, sir, and I told him to have it remain just the way it was.

Q Did anybody make you change your statements? A No, sir.

Q Wait until I finish my question -- did anybody make you change your testimony on the trial, or ask you to do it, with the exception of your priests? A No, sir, only what the priest told me.

Q No one else did? A No, sir.

Q You are positive of that? A Positive, yes.

Q Why did you tell Mr. Wasservogel the story they told you to tell? A The story they told me to tell?

Q Yes? A Just what they told me to say.

Q Why did you do it? A Because they got me frightened, that was why I did it. They told me they were going to kill me, and all that. That was why I did it.

Q How old were you at that time? A I was only sixteen at that time.

Q When you were at Mrs. Goodwin's did you have to work? A No.

Q Had you been working before? A Yes, sir.

Q Did they buy you any clothes? A No, sir, she only bought me one suit, but I wore her daughter's clothes.

Q They took care of you and fed you? A Yes, sir.

Q And housed you? A Yes, sir.

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Q Did they take you out for amusement any place? A Yes, sir, lots of places.

Q You testified before the Coroner also? A Yes, sir, I did.

Q Who took you there? A Mrs. Goodwin.

Q Did you see Gambardella or Degilio there? A I don't remember.

Q Did you testify before the Grand Jury? A Yes I did.

Q Who took you there? A Mrs. Goodwin.

Q Did you see any of the detectives there? A No, sir, I don't remember.

Q Do you know a detective named Benano? A No, sir.

Q Do you know DeMartini? A No, sir.

Q Do you know Fogarty? A No, sir.

Q When you went to see Mr. Wasservogel did he question you closely, for the first time? A Yes, sir, he did.

Q Was that before or after you testified before the Coroner? A Yes, sir.

Q Before or after? A Well, I could not just exactly remember.

Q Do you remember whether he read over to you any testimony you had given before the Coroner? A Yes, sir, I do.

Q Did he read it to you? A Yes, sir, I think he did.

Q Did you read it yourself? A No.

Q Did you tell him that you were mistaken about some things you testified to before the Coroner? A Yes.

Q If you remember, you testified before the Coroner, that

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you saw Rizzo coming out of the poolroom eating a sandwich? A Yes.

Q And then on the trial you testified that you did not see him coming out of the poolroom eating a sandwich -- did any one tell you before you testified on the trial to change your testimony? A No, sir.

Q Why did you do that? A Why did I do it?

Q Why did you testify one way before the Coroner and another way on the trial of the action? A I always said I saw Rizzo coming out of the poolroom eating a sandwich. I don't remember changing my statement then.

Q Did any one talk to you before you testified before the Coroner other than Mrs. Goodwin? A Only Mrs. Goodwin.

Q Did you ever talk over with Mrs. Goodwin, the testimony you had given before the Coroner? A Yes.

Q And her daughter? A Yes, sir.

Q How many times? A Well, a few times only.

Q Did you go over your testimony before the Coroner with any other people? A No.

Q Did you ever discuss the case with Mr. Murphy? A Yes.

Q When was that? A Why, I discussed it before I ever met Mr. Wasservogel.

Q What did you tell Mr. Murphy? A Just exactly what I said then, I told him I had seen the shooting match.

Q After you had made this affidavit in the office of the World, did you see Degilio and Gambardella? A No, sir.

Q Did you see anybody from the District Attorney's office?

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A Nobody, no.

Q Did you go to see Mr. Wasservogel? A No.

Q Do you know Johnny Shilitano? A Yes.

Q Do you know any of the other members of the Shilitano family? A The father and mother, that is all I know.

Q Did they ever ask you to change your testimony? A No.

Q Did any other friends of Oreste or any one ever ask you to change your testimony? A No, nobody, only the priest told me to go back and tell the truth, and he would not give me no absolution at all, and I made up my mind, I said "Yes, Father, I will tell the truth", so I went to the World and told them just what I was supposed to tell, and I told them.

Q You say you were asleep and in bed when this shooting took place? A Yes.

Q And that you know nothing at all concerning it? A Nothing whatever.

CROSS-EXAMINATION BY MR. WASSERVOGEL:

Q Are you working Nellie? A No.

Q Do you remember when the trial took place? A Yes.

Q When was it? A I don't remember, Mr. Wasservogel, the date.

Q Do you remember how many years ago that was? A Last year.

Q Was it the early part of the year or the late part of the year? A I can't just say, I don't remember.

Q Was it around Christmas time or earlier than Christmas time? A I don't remember.

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Q Can't you give us some idea as to when the trial took place? A No.

Q Do you know what month this is? A Yes.

Q What month is it? A September.

Q How long ago was it since we had a trial before His Honor, Judge Malone? A I don't remember.

Q Was it before the summer or after the summer? A I don't remember.

Q Have you been working at all since the trial? A No, sir.

Q No work of any kind? A I was working, yes.

Q Why did you say no? A I was working a few weeks, but then I was sick.

Q How long after the trial did you go to work? A Three weeks after.

Q And where did you go to work then? A Where did I -- my own place, underwear.

Q Where was that place? A On Spring Street.

Q The name of the people, where was it? A I don't know the firm's name.

Q You worked there for three weeks? A No, I only worked there a week.

Q One week? A Yes.

Q How did you get that place? A Found it myself.

Q How? A I went out and looked for it.

Q How did you find it? A I went there and asked if they needed any --

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Q Don't you know where you went to ask for the place? A Yes, I went upstairs and asked the boss.

Q Where is this place you went upstairs? A On Spring street

Q Whereabouts on Spring street? A I don't know the number.

Q Between what streets is it? A On Spring street -- that is a very long street.

Q And that is exactly why I want to know between what streets it was? A I don't know, I can't just remember.

Q You don't remember that either? A No.

Q You remember all about this shooting? A Yes.

Q You don't know where you worked after the trial? A No, sir-- I worked at underwear I told you.

Q You cannot tell us the name of the people with whom you worked? A I don't remember the name. I ~~was~~ only worked there a week.

Q Do you know what pay you received the week you worked there, as you claim? A Yes.

Q What? A My pay?

Q Yes? A I was a piece worker there.

Q What did you make that week? A I made four dollars.

Q Did you do any work at all other than that week, work since the trial? A Yes -- I was sick.

Q What? A I was sick.

Q You worked nowhere else after that? A No, nowhere else.

Q Did you ever work in the Salvation Army on 14th street?

A No, sir.

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Q What? A The Salvation Army?

Q Yes? A I don't remember working there.

Q You would remember that, wouldn't you -- you say you did not work there, or don't remember, which? A I did not work there.

Q Do you know a woman named Mrs. Pickhaver? A No, sir.

Q Did you ever hear that name before? A No.

Q Did you ever work at 112 West 14th? A No, sir.

Q The Salvation Army? A No, sir.

Q Did you ever work for the Volunteers of America? A What is that?

Q Did you ever work for the Volunteers? A No, sir.

Q An organization similar to the Salvation Army? A No, sir.

Q You did not? A No, I was home all the time.

Q Did you ever hear of a firm known as Shear Brothers? A Yes.

Q Did you ever work for them? A Yes.

Q When did you work for them? A I worked well, it was before -- it was after -- no, not after -- yes, after the trial, yes

Q How long did you work for them? A Two weeks.

Q And did you ever work in Loft's candy stores? A Yes.

Q When did you work there? A When did I work there?

Q Yes? A That was after the trial.

Q So that was another place you worked after the trial? A Yes

Q How long did you work there? A I worked there about a month-- no, two months, I think.

Q You did not have that place in mind when I first questioned you about where you were working? A No.

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Q You forgot about that two months? A Yes.

Q Can you tell us some other places where you worked in the past year and a half? A No other -- I don't remember anyether place I have be en working.

Q You are now living with your father and mother? A Yes.

Q Are your brothers at home? A One brother is home.

Q Is that the brother who was a witness on the trial in behalf of the defendant? A No,sir.

Q Your father was a witness on that trial? A Yes,sir,he was.

Q Your father has been a tenant of Shilitano's father for many years? A Yes,sir.

Q For over twenty years? A Well, I couldn't just exactly tell you.

Q For a great many years, at any rate? A Yes,sir.

Q And your father is living at the present time where?

A 243 Mulberry street.

Q How far is that from the place where Shilitano's father lives? A Next door, the next stoop.

Q Since your return home from Mrs. Goodwin's, after the trial of this case, you have seen Shilitano's father frequently? A No.

Q Living right next door? A No,sir.

Q Have you seen him at all? A No.

Q Not once? A I never bother with those people.

Q Listen, not once? A Not once, no,sir.

Q You have not seen the old man Shilitano a single time?

A Not once.

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Q Since the trial? A Since the trial.

Q How often have you seen Johnny Shilitano since that time?

A I seen Johnny about twice.

Q Only twice? A That was all.

Q And the first time you saw him after the trial was when?

A After the trial?

Q Yes? A Well, one day I happened to pass, but did not speak to him.

Q When was that one day? A I don't remember, Mr. Wasservogel.

Q About when? A I don't know.

Q About when? A One day, one week -- I cannot remember every single thing.

Q How long after the trial was it that you saw Johnny Shilitano the first time? A Around a few months after.

Q Would you say it was a week after? A No, sir.

Q Longer than a week? A Yes, sir.

Q Longer than a month? A Well, about a month.

Q Did you see him coming out of his house? A No, sir, he was coming up from the corner and I was going towards the corner.

Q Did you speak with him about the case? A No.

Q Did he speak to you at that time about the case? A No.

Q Did you say anything to him at that time? A No, sir.

Q Not a word? A Not a word.

Q Did he say a single word to you about the trial at that time? A No.

Q So, on the first occasion you simply saw him on the street

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and he passed you and you passed him, and that was all there was to it? A Yes, sir.

Q Is that correct? A Yes, sir.

Q When did you next see Johnny Shilitano? A I saw him Saturday night.

Q What Saturday night was that? A This Saturday night past

Q Last Saturday night? A This past.

Q Last Saturday night? A Last Saturday night, yes.

Q You mean, yesterday was Sunday? A Yes, sir.

Q You mean the day before? A Yes, the day before.

Q The day before yesterday? A Yes.

Q Did you talk with him then? A No, he just handed me the subpoena, that was all.

Q Is that the only time? A That was the only time I spoke to Johnny.

Q That he handed you any paper? A Well, the subpoena.

Q Is that the only time that he handed you any paper? A Yes, the only time.

Q Did you talk to him day before yesterday? A No, sir.

Q Then -- A I did on Saturday.

Q What did you say to him then? A He just handed me a subpoena but did not speak.

Q I ask you did you talk to him? A No, sir, I did not.

Q You did not talk to him at all? A No, not a word.

Q He did not say a single word to you? A No.

Q So Johnny Shilitano has not spoken to you at all? A No, not

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a word.

Q At no time since the trial of this case? A No, sir.

Q You do not want to change that? A No, sir.

Q You do not want to change that at all? A No.

Q You do not want to change the statement about your not having worked at the Salvation Army headquarters barracks? A No.

Q You do not want to change that either? A I did not work there.

Q You never were there? A No, sir, I never was there.

Q You do not know anybody by the name of Pickhaver? A No, sir I do not.

Q You do not want to change that? A No.

Q After the trial of this case you went back to your home?

A Yes.

Q You saw your father and mother? A Yes.

Q You talked with them about the case? A Yes, I did.

Q In which you had been a witness? A Yes.

Q Did you tell them what you had testified to in court?

A Yes, I did.

Q What did you tell them? A What was that?

Q What did you tell your father and mother after your return home from Mrs. Goodwin's? A I did not tell them nothing. They knew all about the case.

Q Didn't you talk about the case at all? A Of course not.

Q Not a word? A No, it was not necessary to talk about the case.

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Q Didn't your father and mother ask you about Mrs. Goodwin?

A Why no, of course not.

Q Did they ask you how Mrs. Goodwin had treated you during the months you were there? A They knew how she treated me.

Q Treated you very well? A Certainly she did.

Q You had no complaint to make against Mrs. Goodwin? A No, none whatever.

Q Mrs. Goodwin never told you to say anything in court? A No.

Q Or to testify one way or the other? A No.

Q Mr. Murphy never asked you to say anything one way or the other? A No.

Q Mr. Wasservegel never asked you? A No.

Q The only persons you claim asked you to give any testimony different from what you now say is the truth, were the two detectives Gambardella and Degilio? A Yes, sir.

Q And Mrs. Goodwin's daughter never asked you to say anything different from the truth? A No.

Q You knew your father had been a witness on the trial?

A No, sir, I did not.

Q Didn't you know that your father was a witness for Oreste Shilitano? A Not while I was at Mrs. Goodwin's.

Q You did not know that? A No, I did not.

Q Weren't you standing out in the hall of Part V court room with Mrs. Goodwin, when your father came out of the room after he testified? A I did not speak to him then.

Q Didn't you see him come out of the room? A Yes, I saw him.

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Q You knew he had been a witness then? A No, I did not.

Q Didn't you talk with Mrs. Goodwin about his having been a witness? A No.

Q Did not Mrs. Goodwin tell you what your father had testified to? A Mrs. Goodwin never told me anything.

Q And didn't you say to Mrs. Goodwin at that time "Why, he is not telling the truth, he is trying to protect the Shilitanos" don't you remember that? A Yes, I do.

Q Then you did know your father had testified upon the trial? A Yes.

Q You did tell Mrs. Goodwin that your father had lied upon the trial? A Yes, sir.

Q To protect the Shilitanos, that was what you told her?
A I did not tell her to protect the Shilitanos.

Q What did you say? A I just said he was lying, that was all

Q You were talking about your father at that time? A Yes, sir, I was.

Q How many times did you see Leo Gambardella and Degilio?
A When?

Q How many times altogether? A Altogether I saw them lots of times -- saw them several times.

Q How many times did they talk to you about the testimony which you now claim they forced you to give in this case? A I don't remember now, I could not just exactly say.

Q How many times did they talk to you, about? A Around three or four times.

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Q Was it three or four? A Three times -- well, three or four times.

Q Which will you say? A Four times.

Q That is positive, they talked to you four times? A Yes, sir four times.

Q On each of those four times, four occasions, they told you what you were to say? A Yes, sir, they did.

Q When was the first time? A That was on Monday night.

Q Was it Monday night? A Yes.

Q At about what time Monday night was it? A I could not just exactly say, but it was night.

Q About what time? A I couldn't say exactly.

Q You know when night begins and morning ends? A Yes, certainly.

Q When does night begin in the month of May, as a rule?

A Six o'clock.

Q How long after 6 o'clock was it that you saw these officers? A Must have been around 7 o'clock, I must have seen them.

Q You do not want to correct that in any way, you are sure it was about 7 o'clock in the evening? A Well, about that time.

Q You said to him good evening? A Yes -- no, they said rather good evening to me.

Q Where were ~~you~~ you at that time? A Near the door of 243 Mulberry street, near the grocery store.

Q Do you remember after you made your statement in the office of the World, you went to the Bar Association? A What is that?

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Q You went to the Bar Association in West 44th street, you went to a building in West 44th street where I was, and a stenographer was there and a woman reporter from the New York World was present also? A Yes, sir.

Q A Miss Meekler? A Yes, sir.

Q Miss Meekler brought you there? A Yes.

Q You made a statement to me at that time, did you not? A Yes.

Q You were there for several hours? A Yes, sir.

Q You saw a stenographer writing down what you said? A Yes.

Q Now was this question put to you, "About what time did you meet Degillie and Gambardella the first time" and you answered "Around two or three o'clock in the afternoon." Did you say that? A Yes.

Q That was what you told me? A Yes.

Q At the Bar Association rooms, after you had made your statement at the office of the New York World, is that correct? A That ain't correct.

Q A minute ago you said yes and now you say no, which do you mean, -which is correct yes, ~~xxxx~~ or no, sir?

MR. WYLIE: A minute ago you asked if she said it and she said yes she said it, and now you ask a different question, you ask which is correct.

THE WITNESS: Mr. Wasservegel, you get me very excited.

MR. WASSERVOGEL: That is the furthest thing from my mind, I want to get the truth.

THE WITNESS: I am telling you the truth.

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BY MR. WASSERVOGEL:

Q Did you say to me that you met Degilio and Gambardella around two or 3 o'clock in the afternoon of that Monday -- did you say that to me? A I don't remember saying that to you.

Q Will you say that you did not say so? A I did not say so.

Q What? A I don't remember telling you two or 3 o'clock, because I know it was evening when I spoke to the two detectives.

Q A few minutes ago that question was put to you and you immediately said yes, you did say that, and you heard Mr. Wylie call your attention to that a minute ago also? A Yes.

Q Did you say that to me or didn't you say that? A I don't remember telling you that.

Q You won't say that you did not say it, will you? A No.

Q You remember there was a stenographer there too? A Yes.

Q "Q There were two of them, Leo and Degilio and Leo spoke to me and he said good afternoon" - did you say that to me?

A I don't remember saying that to you.

Q What did you say to me about that? A I don't know.

Q What did you say to me? A I can't remember.

Q Can't you answer the question? A No.

Q Or don't you want to answer the question, which is it -- don't you want to answer that question? A I don't remember saying that.

Q Will you say that you did not say that? A No, I won't admit to it.

Q What? A No, I won't say that I did not say that, but I

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don't remember saying it.

Q At that time, whether it was in the afternoon or evening, you were standing outside of the grocery store? A Yes.

Q And that grocery store is owned by whom, who keeps that store? A A man.

Q Q What is his name, you have been living there a long time? A Vitacca.

Q You have known Mr. Vitacca for some time? A Yes, sir.

Q How long have you known him? A Since a little bit of a girl.

Q At least fifteen years? A Well, about that much.

Q Mr. Vitacca knows your father and mother? A Yes.

Q And were you alone outside of the store at that time? A Yes.

Q No one was with you at all? A No, sir.

Q Did you see the grocer at that time? A Yes.

Q How far was he from you at the time that the two detectives came over to you? A Why, he was near the door.

Q Right near the entrance to the store? A Yes.

Q How far would you say he was from you at the time that the two detectives first spoke to you? A Why, a little distance away.

Q You just measure the distance, and we will try to get it on the record, and see just how far away he was? A I was sitting here and he was standing there (indicating).

Q Where I have the pencil now, do you mean (indicating)?
A Yes, about that much.

MR. WASSERVOGEL: How far would you say that was?

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MR. WYLIE: Six feet.

MR. WASSERVOGEL: That is not six feet -- about five feet?

MR. WYLIE: About five feet.

BY MR. WASSERVOGEL:

Q At that time did you know Degilio? A No, sir, I did not.

Q Had you ever seen Degilio before? A Degilio?

Q Yes? A No, sir.

Q At that time did you know Leo Gambardella? A Yes, sir, I know Leo.

Q Did you know his full name? A Yes, I know his full name.

Q How long have you known Leo? A I know Leo since I was a little bit of a girl.

Q Had you ever spoken to Leo prior to that occasion? A What is that?

Q Had you ever spoken to Leo prior to that night? A I spoke to Leo lots of times, but that was the first time I ever spoke to him good.

Q How did you come to know him? A I know Leo as a little girl.

Q How did you come to know him, you are not related to him?
A No, of course not.

Q How did you come to know him? A Because he came over and spoke to me.

Q That night? A Yes, sure.

Q Before that - you say you had known Leo -- how did you

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first come to know him? A My papa had a saloon and he used always to come in our saloon.

Q You say you spoke with him? A Yes.

Q Prior to that night, before that night? A Yes.

Q What would he say, simply say hello? A Say good evening.

Q That was all he ever said to you before that night? A No.

Q Before that night? A No, I did not see him before that night, I only saw him Monday night.

Q I am asking you if you ever talked with Leo before the 5th of May? A No, sir.

Q At no time? A No, sir.

Q Never in your life? A No.

Q That was the very first time Leo had ever spoken to you?

A Yes -- no, Leo spoke to me several times before.

Q Which is it? A Mr. Wasservegel, you get me twisted, I am telling you.

Q We don't want to get you twisted, we will give you all the time you want? A I said I often spoke to Leo.

Q What did you talk to him about? A He would say hello, goodbye, and pass by, he would never stop and go in conversation.

Q You never had a long conversation with him? A No.

Q He was a police officer in that neighborhood? A Yes.

Q And the most you ever said to him was hello? A Hello.

Q Nothing else? A Nothing else.

Q You simply knew him from the neighborhood? A Yes.

Q That evening when you say Degilio and Gambardella came

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ever to where you were standing in front of the grocery store, were they in uniform? ~~A Yes.~~ No.

Q You knew they were detectives? A I only knew Leo was a detective but did not know Degilio was a detective.

Q Which of these men first spoke to you? A Both of them did.

Q Both at the same time? A Yes -- no, Leo rather first spoke to me.

Q You are sure about that? A Yes.

Q Leo was the first one spoke to you? A Yes.

Q And the first word he said to you was what? A He said good evening and I answered.

Q You said good evening? A Yes, and he answered.

Q At that moment did the other detective, Degilio, say anything? A He looked at me and he said good evening, too.

Q And the next word that was said was spoken by whom? A The both of them spoke to me.

Q Which one? A Degilio spoke to me after.

Q After the words good evening were spoken by both of these men, the next words which were spoken were spoken by Degilio, is that correct? A Yes, sir.

Q What did Degilio say? A He asked me if I knew anything about the shooting match Saturday night, and I said "No, sir, I do not."

Q You said no, sir? A No, sir.

Q What was the next thing? A He said to me "Would you mind stepping in here." I said to him "No", and I said "It is no place

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for me to step in behind there, men go behind there" and he said "No, there is nobody behind there now." He said "You go in there" and I went in there and he said to me "Sit down" and they had the pencil and paper and they asked my name and I did not answer and Leo answered and said "Her name is Nellie" and this Leo Degilio wrote my name down and wrote the address 243 Mulberry Street and Degilio asked me, he said "Did you see anything Saturday night about the shooting?" I said "No, sir, I did not." He said to me "Now, you did, you know something." I said "No, sir, I don't, I don't know nothing." He said to me "Wen't you do just what we tell you to do." I said "Why should I, I don't know anything about it, I won't tell a lie" and he said to me "You have got to say everything we tell you."

Q Degilio was saying this? A Yes, sir, Degilio, and he said "If you don't say what we tell you, we will kill you." So Leo said "Oh no, he is only feeling." I said "Well, if he talks like that, I don't think he is fooling," I said to Degilio -- and Leo said to me "You have to say you were looking out of the window and seen Oresto Shilitano's father come down and hand this shiny object to the son" and so I said "I did not see that, why should I say that" and he said "Well, we are telling you to say that, so you must say that." I said "No, I won't say it, why should I lie?" He said to me "If you don't say what we tell you, I will kill you" and he gave me a big slap in my face.

Q Which one was that? A Degilio slapped me in the face, and I turned around and I cried and I was going to run up to call my

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mother, and he kept me back, and he said "No, I won't let you go up" and so Leo said to me "Now", he said, "You must go up and get your coat and I am going to take you to Headquarters." I said "No, I won't go to Headquarters, I don't know nothing about it." Then Leo said to me "You must come" and he pushed me and let me fall on the chair. So I started to cry and the groceryman was busy behind the counter and he seen all that. He looked at me but he didn't say a word.

Q At the time Degilio and Gambardella said good evening to you, the grocer was about five feet away? A Yes, sir, but then he went away.

Q Where did he go, in the grocery store? A Yes, sir.

Q And you went in the grocery store? A Yes, sir.

Q And when you went in the grocery store he was standing behind the counter? A Yes, sir, he was.

Q At that time he was doing nothing at all but standing behind the counter? A I don't know what he was doing, of course when I went behind there, I did not see anything else.

Q Did you say to Mr. Vitacca, the gentleman who has known you since you were a little girl, more than fifteen years, that these men were trying to force you to do something which you ought not to do? A No, sir, he did not say a word.

Q Did you say that to him? A No, sir.

Q To Mr. Vitacca, your friend? A No, sir, I didn't say nothing.

Q Are you sure that it was Degilio who told you you knew

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something about this and you must tell us? A Yes, sir, positive.

Q It was not Leo said that? A No, it was Degilio.

Q You are sure about that now? A Yes.

Q You are sure Degilio was the one slapped your face and it was not Leo? A No, it was Degilio slapped me.

Q Did you say this at the Bar Association to me, "Lee says to me you know all about it" and you said "No, sir, I don't know anything about it." He said "Come on in here and I said no, sir, I am not going in here." Did you say that to me? A Yes, I did.

Q Why do you now say Degilio said these things? A Why, they were both there.

Q No, no, no, at this hearing this afternoon you are telling us that Degilio was the one that told you these things, but at the Bar Association you said to me Leo was the one who said these things, why do you change that statement? A I am not ~~xxx~~ changing it.

Q You say that is not a change in the statement? A No, sir.

Q Did you say to me at the Bar Association that it was Leo that slapped you, didn't you say that to me? A Yes, I did.

Q Why ~~sir~~^{do} you say before His Honor, Judge Malone, at this time that it was Degilio slapped you? A They both hit me -- he pushed me, didn't he, as much as slapped me, isn't it, Mr. Wasservogel?

Q You said a few minutes ago that Degilio slapped you?
A Yes, but isn't it just the same?

Q At the Bar Association you admit that you said to me that

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Leo slapped you; why is it you said one thing at one time and say a different thing now? A He pushed me as much as throwing me down, isn't that hitting -- that is hitting.

Q Do not argue with me? A I am not arguing.

Q I am simply asking you about your testimony -- of course, when this police officer slapped your face you cried? A Certainly I cried.

Q Cried out loud? A Yes, sir, the grocer heard me.

Q The grocer was right near? A Yes.

Q Was there any customer in the store at the time? A I don't remember.

Q Was there a customer in the store at any time while you were there? A I don't remember; I was in the back.

Q Didn't you say to me at ~~the~~ the Bar Association that there was a customer in the store? A I don't remember.

Q But that you did not know if it was a man or a woman?
A I don't remember.

Q Did you say that to me? A No, I did not say that to you.

Q You say you don't remember saying it, or that you did not say it? A I don't remember saying that to you.

Q You won't say that you did not say it? A No, I would not admit to it.

Q Of course you remember there was a stenographer there all the time that you were talking? A Yes.

Q And Miss Meekler of the World was there with you? A Yes.

Q Miss Meekler being the lady who brought you to the rooms of

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the Bar Association? A Yes.

Q That is correct? A Yes.

Q Now, what else did Degilio say at the time when you were in the grocery store and Mr. Vitacca was behind the counter?

A He had told me to say about the shooting match --

Q What was it, we were not there and I do not know? A He told me to say that I was looking out of the window and I had seen the father hand the son something shiny, and he put it in his right hand sleeve, that he wanted me to say that I had seen Rizzo coming out of the poolroom eating a sandwich. They both told me to say the same thing.

Q Did they both talk at the same time? A No, sir, of course not. Leo spoke first and then Degilio spoke after.

Q It was Leo spoke first? A No, sir; Degilio.

Q Which is it? A Degilio.

Q Now which is it? A No, Degilio -- I get the names twisted -- Degilio spoke to me first, he told me what to say and then Degilio said it first and then Leo told me to say it after.

Q Will you tell us all that Degilio told you to say? A That was all he told me to say, that I was looking out of the window and I had seen the father hand the son something shiny which he put in his right hand sleeve, and that I had -- that I should say I seen Rizzo coming out of the poolroom eating a sandwich. That was all.

Q Up to that time had you told anybody that you had seen the shooting? A No, sir, I did not.

Q Did you ask these police officers, why do you want me to

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say these things? A No, sir, I did not.

Q What did you say to these police officers when they said these things to you? A I didn't say nothing, I only said after he told me, they said they were going to kill me, I said "All right, I will say just as you tell me to say it." That was all I said.

Q How long were you in the grocery store talking to these men? A I couldn't just exactly tell you, Mr. Wasservogel.

Q Where did they take the pencil and paper that you speak of? A In the room there where I was.

Q Where did they get it? A I don't know where they got it.

Q Didn't you see where they got it? A No.

Q They did not have it in their hands at the time that they came to you? A No, sir -- I don't remember.

Q You don't remember, you say? A No, I don't remember.

Q How long were you in that grocery store with them? A I just told you I can't just tell you.

Q Was it five minutes or longer than five? A It was more, certainly.

Q How much longer than five minutes? A About an hour.

Q So that brings us up to what time? A I don't know what time I was in there.

Q About what time? A I don't know, I couldn't just say.

Q You tell us now, at this hearing, that you went in the grocery store about seven in the evening? A Yes.

Q And you say that you were there about an hour? A Well, about that much.

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Q So that brings us to 8 o'clock? A Yes, 8 o'clock.

Q How long had you been standing in front of the grocery store before the detectives came over to you? A I was sitting down.

Q Sitting, how long? A I was sitting there quite a little while.

Q How long? A I don't know.

Q About how long? A I couldn't really tell you.

Q Was it five minutes? A I don't know.

Q Was it more than five minutes? A I couldn't say, I don't remember.

Q Don't you want to answer these questions? A Yes, I do.

Q Will you do so, please -- I want to know how long you were sitting in front of the grocery store before the detectives came over and spoke to you? A I couldn't just tell you.

Q About how long? A I couldn't tell you.

Q When did you have your supper? A I didn't have no supper that night.

Q No supper at all? A No.

Q Was not this before supper these detectives came over to you? A I don't know -- it was 7 o'clock.

Q What time do you usually have your supper? A I had supper very late.

Q What time? A Around 9 o'clock.

Q 9 o'clock? A Yes.

Q Don't you help prepare the supper? A Sometimes I do, not always.

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Q Did you have your supper that night? A No.

Q No supper at all? A No supper.

Q How is that? A I did not feel like eating that night.

Q Is it not a fact that you had your supper about five o'clock that afternoon? A No, sir.

Q Is it not a fact that you went down to the grocery store in the afternoon to buy some tea for your mother? A Tea -- I went to buy -- I went down the evening I went down before I met the detectives, that was when I was sitting near the door with the tea in my hand.

Q You did not get the tea? A Yes, I had the bag of tea in my hand.

Q Didn't you tell me at the rooms of the Bar Association that because of this occurrence with the detectives you did not buy any tea, and went upstairs? A Mr. Wasservegel --

Q Did you say that? A You misunderstood me, I told you that I had bought the tea.

Q Didn't you say you did not buy the tea? A No, sir -- I don't remember, because I had told you I had bought the tea.

Q Which is it, you don't remember or you did not say it?
A I did not say that. You misunderstood me.

Q And the stenographer misunderstood you too? A I don't know.

Q Did you go to Headquarters that night? A No, sir.

Q Did the police officers ask you to go to Headquarters with them? A That night?

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Q Yes? A No --

Q Did they ask you to go to Headquarters? A That night, no.

Q Didn't you tell Mr. Wylie a little while ago that the officers told you to go upstairs and get your hat and coat and go to Headquarters with them? A Yes, sir, but I did not go.

Q They asked you that? A Yes, sir, they asked me but I did not go. I went the next day.

Q You went upstairs to your mother's? A Yes, sir, I went crying upstairs.

Q You passed Mr. Vitacca in going out? A Yes.

Q And the street was crowded? A Yes.

Q There is always a large crowd of people in Mulberry Street? A Yes.

Q Especially around 8 o'clock in the evening? A Yes.

Q You say you were crying? A Yes, sir, I went up crying.

Q How often did these police officers slap you? A They slapped me, well, two times they slapped me.

Q Slapped you real hard? A Yes, Degilio slapped me hard. Leo pushed me.

Q You cried out? A Surely I cried.

Q No one ran in the store and said stop hitting that girl?
A No, because I did not scream. I cried.

Q You just cried? A Yes, surely.

Q No one came in the store and asked the officers not to strike you? A No.

Q Mr. Vitacca, the grocer, did not interfere? A No.

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Q You never said a word to him about these officers having struck you? A No, I did not.

Q You went right upstairs and spoke to your father and mother? A Yes, and I told mother and father that the detectives had hit me downstairs.

Q What did your father do? A He said "Why don't you go back to the station house and report that."

Q You had not been in the station house? A No, sir, of course not.

Q You say "go back to the station house"? A Yes, my father told me to go to the station house and report them, and I said "No, I won't."

Q Your father did not go downstairs to the station house? A No.

Q You knew where the station house was? A Yes, certainly I did.

Q Where was the station house? A In Mulberry street, next block.

Q How far from your home was it? A Next block.

Q One block away? A Yes, one block away.

Q You did not go over to the station house? A No.

Q You never made a complaint about these police officers to a single person? A No.

Q At no time? A To nobody.

Q Until the day you went to the office of the New York World? A Yes, sir, that was the time.

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Q That was the very first time? A The very first time I complained about them.

Q Did you tell your father and mother what the police officers said to you? A Yes, what they had told me to say.

Q Did your father and mother at that time know anything about the shooting, so far as you knew? A No, sir.

Q Did you ask them if they knew anything about the shooting?
A No.

Q Did you ask them if they heard anything about the shooting? A No.

Q Not a word? A Not a word.

Q Did you say what you had said to the detectives? A What?

Q Did you tell your father and mother what you had said to the detectives? A Yes, sir, sure.

Q What did you tell your father and mother about that?
A I told them they wanted me to say that I looked out of the window and saw Paper Box Kid's father -- wanted me to say that I seen the father -- I seen -- the father hand something shiny to the son and that I had seen Paper Box -- Rizzo, coming out of the poolroom eating a sandwich. So my father said -- no, my father said "Why should you lie like that, you just tell the truth", so I said "if they are telling me to say it I have to say it." I told him they were going to hit me and kill me and they slapped me in there and Leo pushed me, I told him, and my father said "Don't you say nothing else, you just tell the truth."

Q At that time, in the grocery store, did you sign any

papers for the detectives? A No, I did not.

Q Were you asked to sign any papers? A No, sir.

Q How long after that was it that you next saw the two detectives Degilio and Gambardella? A The next day.

Q The very next day? A Yes, when they took me to Headquarters.

Q That was the second time you saw them? A Yes, the second time.

Q Did they come up to your rooms, your home? A Yes, three detectives came.

Q Who was the third man? A I don't know the third fellow.

Q Did the third man talk to you? A No, only Leo and Degilio spoke to me.

Q Was your father home at that time? A Yes.

Q Was your mother home at that time? A Yes.

Q Did your father speak with the detectives then? A No.

Q Did your mother speak with them? A No, my mother said "What is the matter, where are you going?" I said to her "they want to take me, I don't know where they want to take me", and my mamma did not want me to go, my mamma said "You don't know anything, why should you go?" "Well", I said, "I will go", and so they took me to Headquarters.

Q How many rooms did your family live in? A Two.

Q Your father was in the main room, the living room? A Yes.

Q Your mother was in the same room at the time the detectives came in? A Yes.

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Q Who did the talking, Degille or Leo at that time? A Both of them did.

Q What was the first word spoken by either one? A Leo said to me "Come on."

Q Did he speak in Italian or English? A English.

Q Your father understands what the words "Come on" mean?
A Yes, sir.

Q He speaks English a little? A Yes, sir, just a little, broken English.

Q He said "Come on"? A Yes.

Q Did your father say anything to him? A My father -- no -- my father did not say a word, but mamma did the talking.

Q Your father did not say a word about the detectives having slapped you the night before? A No, sir, my father didn't say anything.

Q Your mother never said a word to them about that? A No.

Q Did your father object to your going with the detectives?
A Yes.

Q What did he say? A He did not say anything, but told me not to go.

Q Did your father say anything to the detectives at the time they asked you to go to Headquarters? A No, sir, did not.

Q This was about what time? A This was the morning.

Q In the morning? A Yes.

Q About what time in ~~xxx~~ the morning would you say it was?

A Around ten or 11 o'clock.

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Q Did you go over to Headquarters with them? A Yes.

Q Did your father go with you? A No.

Q On your way to Headquarters did you talk to either Degilie
or Leo? A No, ^{they} did not say a word.

Q Not a word? A No.

Q Did they then say to you what you should say at Headquarters? A Yes.

Q How could they, if they did not say a word to you? A No, they did not say a word, just said to me "come on", that was all.

Q How far is Headquarters from your house? A A few blocks.

Q How many blocks? A Three blocks.

Q It took you about five minutes to walk these three blocks?
A Yes.

Q There were quite a number of people on the streets you passed through? A Yes.

Q Did you talk with any of the people on the street? A No, nobody.

Q Your father remained in his room? A Yes, sir.

Q Your mother remained in the rooms? A After I left them of course they must have been there, I don't know if they went out or not.

Q You did not see your father and mother after you left the house? A No.

Q You went right over to Headquarters? A Yes.

Q Did you talk with either Degilie or Gambardella about this case at any time after that? A After that?

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Q Yes, did they at any time after that tell you what you should say in court, or at any other place? A No, sir.

Q At any time? A No, sir.

Q So that they told you what you were to say in court on one occasion only and that was the day in the grocery store? A Yes.

Q That was the only time that they told you what they wanted you to say otherwise they would kill you? A Yes, sir.

Q That was the only time they threatened to kill you? A No, not the only time, that was the day before -- one of them came to my house after I came home from Headquarters and one of them said to me "Now don't you forget the promise, what you promised me to say", and I said "All right."

Q Which one was that? A That was Leo.

Q He said don't forget the promise what? A What you have promised me to say -- what you promised to say, rather.

Q Those were the only words he spoke at that time? A Yes.

Q That was all he said to you? A Yes -- I don't remember --

Q Now, the story as to how this shooting took place was told to you in the grocery store on one occasion, you say in the evening of the 5th of May? A Yes, sir.

Q Between seven and 8 o'clock? A Yes.

Q By the two police officers? A Yes.

Q That was the only time they told you the details of that shooting? A Yes.

Q Is that right? A Yes.

Q And you never heard the details of that shooting from any

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other person, no one else spoke to you about it? A Nobody.

Q But you went over to Headquarters? A Yes.

Q And at Headquarters whom did you see? A I saw Commissioner Dougherty and Inspector Fauret.

Q That was of course on the 6th of May, was it not, the next day? A Yes.

Q The very next day? A Yes.

Q At Police Headquarters who was the first person you saw?
A I told you Commissioner Dougherty and Inspector Fauret.

Q And the two police officers Degille and Lee went into Headquarters with you? A Yes.

Q Went upstairs with you? A No, sir, downstairs, on the main floor.

Q And what was the first word that was said to you then?
A They asked me what I knew.

Q Who asked you that? A Commissioner Dougherty.

Q And Inspector Fauret? A Yes, sir, both.

Q Asked you what you knew? A Yes.

Q What did you say? A I said I don't know nothing, and they said to me "They would not take you here if you would not know anything", and I said to him "Well", I said, "they want" -- he asked me --

BY THE COURT:

Q Who asked you? A Commissioner Dougherty asked me.

BY MR. WASSERVOGEL:

Q Asked you what? A What I knew and I told him all about it

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I said about the shooting match.

Q What did you tell them? A I told them that I had seen-- I was looking out of the window and I had seen the Paper Box Kid's father hand something shiny to the son, and I had seen Rizze coming out of the poolroom eating a sandwich, and then I told him Officer Heeney was coming and I seen Paper Box Kid struck him on the head. That was all I said.

Q Was there a stenographer present at that time? A Yes, sir.

Q What you said was taken down? A Yes.

Q And it was typewritten? A Yes.

Q You signed it? A Yes.

Q This is your signature (showing paper), is it not? A Yes.

Q Referring to an affidavit made by Nellie DeCarle, which is made part of the affidavit in opposition -- now, Nellie, this affidavit was not made on the 6th of May but on the 13th of May, more than a week after, do you want to correct your testimony now that you went to Headquarters the very next day after the 5th of May? A Yes, I am telling you I went after, the next day I went to Headquarters.

Q The detectives first spoke to you on the 5th of May, that is Monday after the shooting, you knew the shooting took place on the 3rd of May? A Yes.

Q And the detectives spoke to you on the 5th of May? A Yes.

Q You told us a few minutes ago you were taken to Headquarters on the very next day, that is what you said? A Well, Monday.

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Q Did you say that here? A Yes, I did.

Q Now it was at that time you made the affidavit? A Yes.

Q Now that affidavit which I have just shown to you was not made until the 13th of May; do you want to correct that testimony now or don't you know what you are talking about? A I know what I am talking about, but you are getting terribly twisted.

Q Did you tell us a little while ago that the detectives saw you in front of the grocery store on the evening of the 5th of Tuesday May? A Yes, sir, it was the evening, and they took me to Headquarters.

Q Tuesday, the very next day, you were taken to Headquarters? A Yes.

Q And that is the only time you were in Headquarters? A Yes.

Q And that is the only time you signed a paper at Headquarters? A Yes, sir.

Q How long were you at Headquarters? A I was there -- I stated everything and then they took me to Mrs. Goodwin.

BY THE COURT:

Q How long did you stay there? A About two hours.

BY MR. WASSERVOGEL:

Q And how long after that did you see your father and mother? A I did not see my father and mother any more. They took me -- after the next day, straight to Mrs. Goodwin's house.

Q You saw your father and mother during the time you were at Mrs. Goodwin's? A Yes, sir, several times.

Q Whenever you wanted to see your father and mother you were

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allowed to see them? A Yes, sir.

Q Were you taken direct to Mrs. Goodwin's after you spoke to Commissioner Dougherty and Inspector Fauret and signed this paper which I have shown you? A Yes.

Q Is that the very next thing that was done, you were taken to Mrs. Goodwin's? A No, Degille took me out for lunch.

Q What? A Leo -- Degille took me --

Q Which was it? A Degille took me.

Q Where was Leo at that time? A He was in Headquarters with me.

Q Where was Leo when Degille took you to lunch, do you know? A No, only one took me.

Q He did not go with you? A No.

Q You do not know where the other one went to? A No.

Q When was it that they put you on this chair that you say shot up to the ceiling? A That same day.

Q When? A In Headquarters.

Q Was it before or after you saw Commissioner Dougherty and Inspector Fauret? A That was after.

Q After you had made your statement, after you had ~~xxx~~^{signed} the affidavit which I have shown to you, you were put on a chair which shot up to the ceiling? A Yes.

Q Is that right? A Yes.

Q Where was this chair? A It was in Headquarters, in one of the rooms.

Q How far was it from the room in which Inspector Fauret

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and Commissioner Dougherty were? A It was around three rooms away.

Q You had already made your statement and signed it? A Yes.

Q And you were taken into that room? A Yes.

Q Who was with you then? A Everybody was with me, Commissioner Dougherty and Leo and Degilio was there.

Q Was Commissioner Dougherty in the room? A Where?

Q In the room where this chair was which shot to the ceiling? A No, only Leo and Degilio was there when they put me on the chair.

Q What sort of a chair was it? A I didn't exactly look on the chair. I was sitting down like this and all of a sudden I went up to the ceiling.

Q How many chairs were there in that room? A I couldn't say just how many.

Q You walked in the room and sat down? A Yes.

Q On a chair? A Yes.

Q And Leo and Degilio were in the room with you? A Yes.

Q You are not afraid that the chair upon which you are sitting now will shoot up to the ceiling, are you? A Well, I don't know.

Q You don't know -- you don't mean that, do you?

(No answer).

Q You really want to tell us, after you had signed an affidavit at Police Headquarters, you were taken into a room by these two police officers and that you of your own accord sat down

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upon a chair and that that chair shot up to the ceiling?

A Yes, sir, it did.

Q Did you fall down? A I fell down and fell unconscious.

Q You know you were unconscious? A Yes.

Q You remember that fully and well? A Yes, certainly.

Q How long were you unconscious? A I won't say just how long, I know I was unconscious for a little while.

Q Where did you go after that? A After that I came out and they took me to Mrs. Goodwin's house.

Q Did you tell Mrs. Goodwin you had been placed upon a chair at Police Headquarters after you had made a statement, and that the chair shot up to the ceiling? A No, sir, I did not.

Q Did you tell your father and mother about that? A Yes, I did.

Q How long after this occurrence in Headquarters you speak of did you tell your father and mother about the chair? A Certainly I told my father and mother.

Q When? A After I went home.

Q Oh, after the trial? A No, before the trial.

Q When was it? A It was before I went to Mrs. Goodwin's house.

Q You were taken direct from Headquarters to Mrs. Goodwin's?

A No, I just came to think that before I went to Mrs. Goodwin's house I went home and told my father and said "Papa, look what they done, they put me on a chair and I went to the ceiling and I came down all of a sudden" and then I came out.

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Q Now, you say you were not taken to Mrs. Goodwin's that same day? A No.

Q You were told to go home? A Yes.

Q Did you go home alone or did the detectives go with you?
A I went home alone.

Q All alone? A All alone.

Q On the way home did you meet any people you knew? A No.

Q You saw a great many people on the street? A Yes.

Q Did you go back to the room where Commissioner Dougherty and Inspector Fauret were, and tell them that you had been placed upon a chair which shot up to the ceiling? A No.

Q Did you at any time tell anybody connected with the Police Department or the District Attorney's office such a thing had been done to you? A No.

Q But you say you went home and you said so to your father?
A Yes, I told my father.

Q Did your father go to the station house and make a complaint? A No.

Q Did your father go back to Police Headquarters with you and make a complaint? A No.

Q How long did you remain home after that? A What is that?

Q How long did you remain home after that, before you were taken to Mrs. Goodwin's? A I was taken to Mrs. Goodwin's the next day.

Q The very next day? A Yes, sir.

Q By some police officers? A Yes.

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Q Which one? A Leo.

Q Leo alone? A Yes.

Q Lee came there all alone? A Yes.

Q Was your father home? A No.

Q Was your mother home? A Yes.

Q Did your mother say anything to Leo about the chair in Police Headquarters? A No, not my father.

Q I am talking about your mother? A No.

Q You say your father was not home? A No, he was not.

Q But your mother never said a word about that? A No.

Q When did you first hear about this shooting? A I heard of the shooting Sunday morning.

Q Didn't you hear of the shooting on the night of the shooting, Saturday night? A No, I did not.

Q Didn't you see your father and mother run to the windows and look out at the crowds in the street? A No, I was sleeping at that time.

Q Don't you remember your brother was brought home drunk that night? A I don't remember nothing, I was sleeping at that time.

Q You say that you don't remember that your brother was brought home drunk? A No, sir, I don't remember, I don't know. I was sleeping at the time.

Q Didn't you tell me at the Bar Association that your brother was brought home scussed, that was the word you used? A I used that word?

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Q Yes? A I don't remember telling you that.

Q Did you ever use that word? A No.

Q Didn't you use that word to me at the Bar Association?

A Soussed?

Q Yes, soussed? A No, sir.

Q You say you didnot say that or don't you remember? A No, I did not say that.

Q Did you use the word drunk? A Drunk, --

Q Or did you use the word stewed? A No, sir, I don't use those three words.

Q You did not? A No.

Q Did you see your brother that night? A No, I did not.

Q You do not want to correct that in any way? A No.

Q Was this question put to you by me --

MR. WYLIE: I do not want to interrupt, but I have not the slightest idea what he is reading from. This is a sort of an *investigation* inquest, and I have not the slightest idea what Mr. Wasservogel is reading from, and I think somebody ought to know. He says "Was this question asked", and then he reads the question.

MR. WASSERVOGEL: I refer to questions put to the witness at the rooms of the Bar Association at a certain time. I understand we are to go into it very fully, and that is the only way I can do it.

THE COURT: You have not an extra copy?

MR. WASSERVOGEL: I think we have one upstairs, I can

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get it for Mr. Wylie by to-morrow mornning.

An adjournment is now taken until to-morrow afternoon, September 21st, 1915, at 2 P.M.

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New York, September 21st, 1915,

Hearing resumed.

MR. WASSERVOGEL: May the record show, if Your Honor please, that at the close of the hearing yesterday afternoon, I gave to Mr. Wylie a copy of the testimony of the various witnesses which was taken at the rooms of the Bar Association in the month of March, 1915.

MR. WYLIE: I may add that it is not testimony. It was not taken under oath.

MR. WASSERVOGEL: The statement taken.

THE COURT: Whatever it is you have it?

MR. WYLIE: Yes.

NELLIE De CARLO resumes the stand:

CROSS-EXAMINATION CONTINUED BY MR. WASSERVOGEL:

Q You told us yesterday afternoon that you went down to the grocery store to buy some tea? A Yes, sir.

Q Do you remember that? A Yes, sir.

Q And that you had bought the tea and taken it upstairs, is that right? A Yes, sir.

Q You do not want to correct that statement in any way, do you? A No.

Q You remember the day that you were at the rooms of the Bar Association? A Yes.

Q That was about the 17th of March of this year? A Yes, sir.

Q And you told me then, did you not, that you went down-

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stairs to the grocery store to buy some tea? A Yes, sir.

Q And I asked you, "You went down for tea", your answer was "Yes" -- that is correct? A Yes, sir.

Q Then I asked you this question, did I not, "Q You were downstairs in the grocery store without buying the tea", and your answer was "No, of course I did not bother getting any tea" -- did you say that to me? A I don't remember telling you that.

Q Will you say that you did not say that? A I did not say that.

Q Was this question put to you by me, "Didn't your mother ask you why you did not bring it up", and was this your answer, "Surely I told her." Was such a question put to you and such an answer given by you? A What is that?

Q "Didn't your mother ask you why you did not bring it up (the tea)," and you answered "Surely I told her" -- did you tell your mother why you did not bring the tea? A No, I did not.

BY THE COURT:

Q Did you say that at the Bar Association? A Yes, sir-- no, sir, I don't remember saying that, Your Honor.

BY MR. WASSERVOGEL:

Q Will you say that you did not say so? A I did not say so.

Q What? A I did not say so.

Q Was this question put to you by me, "Did your mother send you down for tea after you came upstairs", and was this your answer "Surely, then she seen me go up without the tea and she said 'What is the matter, did you lose it' and I said no." Was that

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question put to you and did you give that answer? A I remember giving that answer.

Q Why did your mother ask you whether you lost the tea if you brought it upstairs? A She seen I went up without the tea and she asked me if I lost it or not.

Q Then you did not bring the tea upstairs? A No, of course I left it in the grocery store all excited.

Q You told us yesterday you brought the tea upstairs? A No, sir, I beg your pardon.

MR. WYLIE: I did not hear her say so. She said she bought it.

THE WITNESS: I had bought it but did not bring it up. All excited I left it in the grocery store.

BY MR. WASSERVOGEL:

Q You left the tea downstairs? A Yes, sir.

Q You went right upstairs and told your mother you had spoken to these two detectives? A Yes.

Q They were not in uniform? A No, they were not.

Q Do you still say you went to Headquarters on the very next day? A Yes, sir.

Q Was your father home that day when the officers came to take you, to Headquarters? A No, sir, he was not there.

Q He was not home? A Not the first day -- the following day after I did not return back, certainly he was home.

Q You only went to Headquarters once? A No, I went to Headquarters twice. The following day I went and came back and re-

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turned home and then went the following day. They came to take me and they took me to Headquarters and from there I did not return any more.

Q Didn't you tell us yesterday you went to Headquarters only once? A I beg your pardon I said twice; you misunderstood me

Q How often did you sign any statements at Headquarters?
A Pardon me.

Q How often did you sign a statement at Headquarters? A I signed a statement twice.

Q Two statements at Headquarters? A Yes, sir, twice.

Q At Headquarters? A Yes, sir.

Q When did you first sign the statement? A In Commissioner Dougherty's --

Q When? A The first day, and then I signed it the following day again.

Q What do you mean by the first day? A The day I went I stated what I said, and they told me to sign a paper and I signed my name.

Q That was what day? A The first day.

Q How long was that after the day you met the two detectives in the grocery store? A It was Tuesday.

Q On Tuesday? A Yes -- no, I beg pardon, on Monday.

Q Did you go to Headquarters on Monday? A Yes, sir, I am just telling you I went there.

Q Don't get this wrong. I want you to understand the question, and if you do not understand it, say so before you answer--

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did you go to Police Headquarters on the same day that you met the two detectives? A Yes, sir, I am telling you I did.

Q The same day? A Yes, sir, the same day.

Q At what time did you go to Headquarters? A I don't remember what time.

Q About what time? A I couldn't really tell you.

Q How long was it after you met the two detectives? A How long after?

Q Yes? A The following day I met them.

Q You told us a minute ago that you went to Headquarters the same day you met the detectives? A Yes, I did.

Q What time did you go there that day? A What time-- I don't know.

Q About what time? A Do you think I have to think of every little thing.

Q Excuse me, just answer my question -- about what time was that? A I couldn't tell you.

Q What time was it you met the detectives? A In the evening

Q Around what time? A Around 7 o'clock.

Q You were with them how long? A About an hour.

Q How long after that was it you went to Headquarters? A I had gone to Headquarters. I returned back.

Q Did you go to Headquarters before you met the two detectives? A No, I did not, I went to Headquarters with the detectives.

Q Do you understand my questions? A Yes, sir, I do.

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Q Do you understand that you have just told us that you went to Headquarters the same day that you met the two detectives?

A On Monday?

Q Is that right? A Yes, sir, that is correct.

Q On that day you went to Headquarters? A Yes, sir, I returned home again.

Q There is no question about that? A No, no question whatever.

Q You met the two detectives about 7 o'clock in front of the grocery store? A Yes, sir.

Q You were with them for one hour? A Yes.

Q Did you go with the detectives to Headquarters then? A Yes

Q Immediately? A Yes.

Q The same evening? A No, sir.

Q What do you want to tell us? A You don't understand it right.

Q What is it that you don't understand? A You asked me if I went to Headquarters the same day, and I told you I did.

Q You did go to Headquarters that day? A Yes.

Q I want to know what time it was that you went? A I don't know what time.

Q How long was it after you met the two detectives, that is a simple question? A How long after?

Q Yes? A Do you mean to say I have to look after every little thing.

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BY THE COURT:

Q You said you were there an hour and then went to Headquarters? A Yes, sir.

Q Did you go at once after the expiration of the hour? A No.

Q How long after? A About half an hour.

Q Went directly up there? A Yes, sir.

Q That night? A Yes, sir.

Q And found Commissioner Dougherty there? A Yes, sir.

BY MR. WASSERVOGEL:

Q That was about half past eight at night? A No -- well, around that time, half past eight.

Q How long did you remain at Headquarters then? A They just spoke to me and made me sign the paper and then sent me home.

Q Who were there that night at Headquarters? A The two detectives and Commissioner Dougherty was there, that was all.

Q How long did you remain at Headquarters? A I just told you I just went there and they made me sign a paper, and I went home.

Q Was that the day you sat on the chair which you say was an electric chair? A No -- it was not --

Q It was not? A What is that?

Q (The question is repeated as follows) Was that the day you sat on the chair which you say was an electric chair? A Yes, sir.

Q The same night? A The same night.

Q Didn't you tell us yesterday that you did not go to Headquarters until the following day? A I went twice to Headquarters.

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Q Didn't you tell us yesterday the only time you went to Headquarters was on the following day? A You misunderstood me, I went twice to Headquarters.

Q Did you tell your father and mother that you had signed a paper at Headquarters? A Yes.

Q That night? A Yes.

Q That was all on Monday night? A All on Monday night.

Q What time did you return to your home, about what time?

A Around -- well, about quarter of nine.

Q You didn't stay very long at Headquarters? A No, I didn't.

Q Was the paper which you say you signed, all written out when you arrived at Headquarters? A Yes, sir, it was.

Q All prepared? A Not all prepared -- they made me sign it. I don't know if it was prepared or not.

Q How long did you stay in Commissioner Dougherty's room or Inspector Faurot's room before the paper was handed to you to sign? A About half an hour.

Q Half an hour? A Yes.

Q You say you went there again the next day? A Yes, sir, the following day.

Q Who called for you then? A They came for me -- they came take to ~~with~~ me.

Q The same detectives? A Yes, sir, -- two of them.

Q This was in the morning? A Yes, sir.

Q Was your father home at that time? A Yes, he was home.

Q Was your mother home at that time? A Yes, she was there.

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Q You are sure about that, your father and mother were home on that occasion? A Yes.

Q Aren't you mistaken about that? A No, sir.

Q Was that the last time you went to Headquarters? A Yes, sir.

Q You went to Headquarters direct from your home? A Yes.

Q Did not stop anywhere on the way? A No.

Q You have a brother-in-law? A Yes, sir.

Q That brother-in-law has a florist's store? A Yes, sir.

Q How far is that florist's store from your home? A Around seven or eight doors away.

Q In the same street? A Yes, sir.

Q In Mulberry street? A Yes.

Q Did you pass the florist shop on the way to Headquarters?
A Yes.

Q Did you see your brother-in-law? A Yes -- no, I did not pay no attention looking in the store.

Q Did you see your brother-in-law? A No.

Q Wasn't he there? A I don't know.

Q Did you see your father? A No, sir.

Q Didn't you see your father in the florist's store on the way to Headquarters? A No, sir.

Q Were you asked this question at the Bar Association by me, "You went direct to Headquarters from your house" and did you give this answer, "A No, I stopped in the store and told my father they were taking me to Headquarters." Did you say that? A No, sir, I don't remember saying it.

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Q You say you did not say that? A No.

Q Or that you don't remember having said it? A I did not say it.

Q Was this question then put to you, "You went into the store" and did you give this answer "Yes, surely." How about that? A I don't remember saying that.

Q Will you say you did not say that, and that question was not put to you? A No, I won't just exactly say that, but I don't remember saying that.

Q Was this question put to you, "Do you say that your father was in the grocery store", and did you give this answer, "No, sir, 219 Mulberry street"? A I don't remember saying it.

Q Was is the number of the florist's shop? A 219.

Q That happens to be the number of the florist's? A Yes.

Q Do you say you don't remember having said that to me, or that you did not say it? A I don't remember saying it.

Q You say that you did not say that? A No, sir, I won't admit to that.

Q Was this question put to you, "Did you have to pass the florist,s in order to go to Headquarters", and did you say "Yes"? A I did not say that.

Q But it is true, is it not, that you do have to pass the florist,s in order to go to Headquarters? A Oh surely, yes.

Q You won't say that you did not say it? A No, sir, I won't; I won't admit to it.

Q Was this question put to you, "Did he, the detective, al-

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low you to go in there to tell your father", and did you say "No, near the door"? A I don't remember saying that.

Q Will you say that question was not put to you and that you did not give that answer? A I won't admit to it.

Q What? A I did not say that.

Q Was this question put to you, "Was your brother-in-law there too", and did you give the answer "Yes, sir"? A No, sir.

Q What is that? A No, sir.

Q Did you see your brother-in-law at all that day? A No, sir I did not.

Q Have you seen your brother-in-law at all since the day of the shooting? A No, sir, I did not.

Q Not at all? A Not at all.

Q Don't you see your brother-in-law? A No, sir.

Q Never see him, A Certainly I see him.

Q Why did you say you did not see him since the day of the shooting? A I did not see him that day.

Q Have you seen him since the day of the shooting is what you were asked, and you said no? A No.

Q Do you mean to say that? A Yes.

Q You have not seen him at any time since the day of the shooting? A No.

BY THE COURT:

Q The shooting was in May, 1913? A Yes.

Q With that in mind, what is your answer, have you or not seen him since that time, yes or no? A I can't remember every

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little thing. I can't remember.

BY MR. WASSERVOGEL:

Q Your brother-in-law is your sister's husband? A Yes, sir.

Q What is his name? A Joe Battinella.

Q So that the last time that you went to Headquarters was
1 on what day of the week? A Monday.

Q The last time? A The last time was Tuesday.

Q That was on the 6th of May? A Yes, sir, the 6th of May.

Q How long did you remain at Headquarters then? A I did not
remain there. They took me to Mrs. Goodwin's house.

Q How long did you stay there before you were taken to Mrs.
Goodwin's? A At Headquarters?

Q Yes? A I stayed there -- you mean the same day?

Q The last day you were there, that Tuesday, how long were
you there? A Half an hour.

Q Did you sign any papers then? A Yes.

Q Do you remember what paper you signed? A Sure, a paper
I -- the statement that I gave.

Q You had signed that statement the night before, you did not
sign the same paper? A No, sir.

Q What paper did you sign the second day? A Some paper
they made me sign, I did not read it.

Q Who was it asked you to sign that paper? A The gentleman
there that was writing that down, he told me.

Q Who was it? A The stenographer, I think.

Q Inspector Fauret was there? A Yes, sir.

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Q He was there at the time you signed the paper? A Yes, sir.

Q You say now that you did not read the paper that you signed? A No, sir.

Q Was this question put to you at the Bar Association, "Did you sign a paper"? A Yes? A I signed a paper.

Q Was that question put to you, and did you give that answer "Did you sign a paper" and did you answer "Yes"? A I did.

Q Was this question put to you then, "You could read what you signed" and did you say "Yes"? A I did.

Q Was this question then put to you, "You read well, don't you" and you said "Yes, pretty well"? A Yes.

Q You went over to Mrs. Goodwin's home? A Yes, sir.

Q At that time where did she live? A 136 Charles street.

Q That was in Manhattan? A Yes.

Q You lived with Mrs. Goodwin and her daughter for how long? A For three months.

Q Did you move over to Brooklyn with her? A Yes.

Q Altogether how long were you with her? A Ten months altogether.

Q How long after that was it that you were a witness in the Coroner's Court? A I don't remember.

Q What? A I don't remember.

Q About how long? A I don't know, I couldn't say.

Q Was it more than a week? A I don't know, I couldn't say, I don't remember.

Q Did you testify at the trial of this case to all the

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things that the officers told you to say, as you now claim? A Yes.

Q What they told you to say you testified to, is that what you want to tell us now? A Yes.

Q Mr. Wylie asked you this question yesterday, "Did they tell you to say that you saw Shilitano shoot Teare or Heeney"? A Yes.

Q Did you give him this answer "Yes, they did, they told me to say it"? A Yes, sir.

Q And did they tell you to say that you saw the defendant shoot both of these men? A Yes, they did.

Q That you saw the defendant, Oreste Shilitano, shoot first Officer Teare and then Officer Heeney, or first Officer Heeney and then Officer Teare? A Yes, sir.

Q But you did not testify to that on the trial, did you, you did not say that on the trial? A Yes, I did.

Q Didn't you testify at the trial that you saw Officer Heeney shot down, and that you had seen Rizzo shot down? A Yes, and then I --

Q Did you say at the trial that you saw Rizzo coming from the direction of the poolroom eating a sandwich? A Yes.

Q That you saw Oreste Shilitano shoot him down, did you say that at the trial? A Yes.

Q And did you say also at the trial that you saw Officer Heeney cross from the other side of the street and raise his club as if to strike Shilitano, and that as he raised his club, that Shilitano shot the officer? A Yes, sir.

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Q And that then you closed your window? A And went in.

Q And you saw nothing else? A Yes, sir.

Q You said nothing about Officer Teare at all? A No sir.

Q Did you? A No, sir.

Q That is one of the things you did not testify to although the officers told you to say that you did see the shooting of both officers, Heeney and Officer Teare, is that correct? A Yes, sir.

Q Why didn't you say on the trial that you saw Officer Teare shot as well as Officer Heeney, if you were simply repeating what the officers told you to say? A I could not come to think of every little thing.

Q They did not tell you to say that you closed your window immediately after you had seen Officer Heeney shot? A Surely they did.

Q Told you that also? A Yes, sir, certainly they told me everything.

Q You say now that they told you to say that immediately after you saw Officer Heeney shot you closed your window? A Yes.

Q When was it that you were to say that you saw Officer Teare shot? A What is that?

Q (Question repeated)? A The day after they came to see me, that was Monday night --

Q What did the officers tell you about the shooting of Officer Teare, tell us everything they said about that? A Told me to say Paper Box Kid killed three of them, that is what they told me to say.

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Q They also told you to say that you closed your window immediately after you saw Heeney shot? A Yes.

Q When did they tell you that Teare was shot? A They did not tell methat Teare was shot. There was two killed.

Q You told Mr. Wylie yesterday, and you told us the same thing to-day that the officers told you to say that you saw Officer Heeney shot and that you saw Officer Teare shot? A Oh no, I beg your pardon. I only said it was two -- I misunderstood probably, but I know it was only two killed, and that is all.

Q So that the officers did not tell you Teare was shot?
A Rather three was killed -- Rizzo and Officer Heeney --

Q Did the officers tell you to say that you saw Officer Teare shot? A No, they did not.

Q You were mistaken when you said that before? A Yes, I beg your pardon.

Q You are sure you are right now? A Yes, sir, positively right.

Q You are sure that they told you to say that you closed your window immediately after you saw Officer Heeney shot? A Yes, sir, they did.

Q At the time when you spoke to the two men, Gambardella and Degilio, the police officers, did you know who had done the shooting? A No, sir, I did not.

Q Did you know what they were talking about, the officers?
A No, sir, I asked them what they were talking, what they wanted me for, why did they come over and ask me, and I said I don't

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know anything about it. They said "Did you see anything Saturday night" and I said "No, sir, I did not. I was sleeping at the time that happened.

Q Did you know anything about the shooting having taken place on Saturday night? A No, I did not.

Q At the time that the officers first spoke to you, had you heard anything about the shooting at all? A No, sir.

Q Not a word, A Not a word.

Q You had not spoken to anybody about any shooting at all?
A No, not a word.

Q So when the officers first spoke to you about it, it was all news to you? A Yes, sir.

Q Did you know that three men had been killed Saturday night? A No.

Q You did not know that? A I knew it Sunday morning.

Q I talk about Monday evening when you spoke to the officers? A Surely.

Q Did you know at that time three men had been killed Saturday night? A Yes, sir, surely.

Q Did you know at that time the name of the man who was charged with the killing? A I beg pardon -- it was Rizzo.

Q Rizzo is not the man who was accused of the killing? A No, I beg pardon.

Q At the time the two policemen spoke to you first, did you know who it was that was accused of the killing? A No, sir, I did not.

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Q Who was the first person told you that it was Paper Box Kid? A Two little kids -- two little children came over to me and told me.

Q When was that? A Well, it was Monday -- it was Monday afternoon.

Q Was that before you saw the officers or after? A Before I seen the officers.

Q You did know at that time, or you did hear or had heard at that time that Paper Box Kid or Shilitano was the man charged with the killing? A Yes.

Q Or accused of the killing? A Yes, sir.

Q So you did know what the policemen were talking about?
A No, I did not.

Q You knew there had been a shooting? A Yes, sir.

Q You knew three men had been killed? A Yes.

Q You also knew the name of the man who was charged with the killing? A Yes, sir, but everybody knew it around the neighborhood.

Q You also knew? A Yes, sir, surely I did.

Q You knew this man John Rizzo? A Yes, sir, I did.

Q How long had you known him? A I knew him around the neighborhood.

Q How long have you known Oreste Shilitano? A Ever since I was a little bit of a girl.

BY THE COURT:

Q You used to see him frequently? A Why, yes.

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Q Did you talk with him? A No.

Q Never talked with him, A No, never spoke to him.

Q Your father was a tenant of his father's? A Yes, sir.

Q For a long time? A Yes, sir.

Q You saw him frequently about the house? A Yes, sir.

Q But never spoke to him? A No, never spoke to him.

BY MR. WASSERVOGEL:

Q Did you talk with any one about how Oreste was dressed on the night of the shooting? A Yes, sir, I did.

Q With whom? A I beg pardon.

Q (Question repeated)? A No, sir, I did not.

Q Did you talk with anybody as to how John Rizzo was dressed on the night of the shooting? A No, sir, I did not.

Q On the trial of this case you testified that Rizzo was dressed in his shirt sleeves, is not that correct? A I don't know

Q What? A I don't know.

Q Will you say that you did not so swear on the trial of this case?

MR. WYLIE: You asked her if that was correct.

BY MR. WASSERVOGEL:

Q You understand my question, don't you? A Yes.

Q Please try to answer it -- will you say that you did not so swear on the trial of this case? A Yes, sir.

BY THE COURT:

Q You say you did not say so? A No, sir, I admit I did say it.

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BY MR. WASSERVOGEL:

Q How did you come to testify on the trial of this case that Rizzo was in his shirt sleeves at the time of the shooting, if no one told you to say that and if you had not seen the shooting?

A I cannot answer that question.

Q Did you on the trial of this case say that you saw the flash of a gun at the time of the shooting? A Yes.

Q Do you remember prior to the trial, that is before the trial, you were in my office upstairs in this building, and you showed me the way the police officer Heeney came over with his club in his hand, and was about to strike Shilitano when Shilitano shot down the policeman, you remember that? A Yes, I do.

Q Stand up and indicate to us now how that was done? A I don't have to, do I -- he just struck him like that (the witness indicates by rising to her feet and illustrating).

Q He was just about to strike him? A Yes, sir.

Q How far away was Shilitano from the policeman at that time? A A few feet away.

Q When was it that you saw Johnny Shilitano the last time? A Johnny Shilitano -- Saturday night.

Q Before that when did you see him the last time before Saturday night? A A few months ago I saw him.

Q Did you talk with him then? A No, I did not.

Q Not a word? A No, not a word.

Q Didn't you talk with Johnny Shilitano about two weeks before you went to the Bar Association? A No, sir, I did not.

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Q Didn't you say to me at the Bar Association that you met Johnny Shilitano two weeks before that day, that is about the 1st of March, and that you said to him "Johnny I would like to talk with you" and that he said "I don't want to talk with you", and that you then said "Can I talk to you a few minutes". Did you say that to me? A I don't remember saying that to you.

Q Will you say that you did not say it? A No, sir, I won't.
BY THE COURT:

Q Is that a fact, did you ~~ex~~ meet him? A No, sir, I did not

Q Did you say these things at that time? A No, sir, I did not. I don't remember saying those things to him.

BY MR. WASSERVOGEL:

Q Who accompanied you to the office of Mr. Littleton, who went with you? A My father went with me.

Q Who asked your father to take you down to Mr. Littleton's office? A Who asked?

BY MR. WYLIE:

Q If you know of your own knowledge? A My own feet took me there.

BY MR. WASSERVOGEL:

Q Do you know who asked your father to bring you down to the office of Mr. Littleton? A No.

Q Did you ever ask your father? A No, sir, I did not.

Q You were not interested to know? A No, sir, I did not.

Q How often were you at Mr. Littleton's office? A I was only there once.

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Q Was that the time you signed a paper down there? A Yes, sir, I did.

Q Mrs. Goodwin is a Catholic? A I do not know.

Q You went to the Catholic church with her very often?

A Yes, I did.

Q Which Catholic church did you attend with Mrs. Goodwin?

A In Brooklyn.

Q Which one was it, give me the name? A I don't know, I am not acquainted with Brooklyn.

Q But you went to that church how many times? A Well, as long as I lived with Mrs. Goodwin.

Q Every Sunday? A Every Sunday.

Q Went to mass? A Yes, sir, I did.

Q Early mass or late? A 9 o'clock mass.

Q You were with Mrs. Goodwin about ten months? A Yes, sir.

Q During these ten months you went to mass every Sunday?

A Yes, sir.

Q And you don't know where that church was? A No.
on street

Q Don't know what the church was? A No, sir.

Q You do not mean that that you do not know what street the church was? A I am not acquainted with Brooklyn.

Q You went there every Sunday for ten months? A Yes, sir, I did; I am not lying now.

Q During these ten months how often did you go to confession? A I went to confession no more than -- about twice.

Q Did you say anything to the Father who took your confes-

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sion as to what the police officers had told you to say? A No, I did not confess that at all to the priest in Brooklyn.

Q What church did you attend after the trial? A St. Patrick's Church.

Q Where is that? A Mulberry Street.

Q Did you go to church every Sunday? A I did.

Q After the trial? A Yes.

Q You did not miss a single Sunday? A No.

Q How often did you go to confession after the trial? A I go once or twice a month, I go to confession.

Q You went twice a month regularly? A Yes.

Q You still go? A Yes, I do.

Q When for the first time did you tell any priest connected with that church, that you had sworn to an untruth on the trial of this case? A It was the time of Lent.

Q What? A I went to confession at the time of Lent.

Q What year? A This year.

Q Although you had been to confession a great many times after the trial you said nothing about what the policemen told you to say until this last Lent? A Yes, sir.

Q Is that correct? A Yes.

Q How did you come to tell the priest anything about it then?
A Because I could not sleep at night.

Q What? A I could not sleep.

Q Do you sleep well now? A Yes, I do, after I went to confession, after the priest had told me to come out and tell the

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truth.

Q You knew Mrs. Goodwin was a Catholic, did you not? A I do not know she is a Roman Catholic, but I think she is an Episcopalian.

Q You knew she was a Catholic? A Yes, sir.

Q You told me so at the Bar Association? A Yes.

Q You did know she attended the Catholic church with you?

A Yes.

MR. WYLIE: She said a minute ago she did not know if she was a Catholic or not.

BY MR. WASSERVOGEL:

Q You told me at the Bar Association Mrs. Goodwin was a Catholic, did you say that to me at the Bar Association? A I did, because she came to church with me.

Q When was it you went to the office of the New York World?

A I went there May the 5th.

Q You remember that day very well? A Yes, I do.

Q May 5th of this year? A May 5th.

Q Was it May 5th? A Not May 5th -- I cannot exactly think of the day I was there.

Q How long ago was it? A It was about a few months ago, about two months ago.

Q Was it before you went to the Bar Association or after?

A It was after.

Q You went to the office of the World after you went to the Bar Association? A No.

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Q Which was it, before or after? A Before.

Q Sure about that? A Sure about that.

Q Who took you down to the office of the New York World?

A Myself -- me and my father went down.

Q Did you talk with your father before you went to the office of the World? A Yes, sir, I did.

Q Did any one speak to you about going to the World office?

A No, sir, no one whatever.

Q How did you come to pick out the World? A Because I read the papers.

Q Is that the only paper you read? A No, sir, I read lots of papers.

Q Why did you pick out the New York World? A Because I felt like picking it out.

Q Who did you go there to see? A Well, some gentleman, but I don't remember his name.

Q Who did you expect to see at the office of the New York World? A Just the party I spoke to.

Q Did you know you were going to see him? A No, not just exactly.

Q Whom did you go down there to see? A I went down there and called a gentleman over and told him that I wanted to speak to him very important.

Q Where did you go, which floor did you go to? A I went to the eleventh floor.

Q Who asked you to go to the eleventh floor? A Who asked me?

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Q Yes, how did you happen to go to the eleventh floor?

A Because I went there myself.

Q Why not to the ninth or eighth floor? A What?

Q Who directed you to go to the eleventh floor? A Nobody but myself.

Q How did you happen to pick out the eleventh floor as the proper floor for you to go to? A I asked the elevator man, I said "Would you mind taking me up to the eleventh floor" and he said "Yes".

Q You went to the office of the New York World and told the elevator man that you wanted to go to the eleventh floor? A Yes, sir the eleventh floor.

Q Who told you to go to the eleventh floor? A No one did.

Q How did you happen to pick out the eleventh floor as the floor to go to? A Because I knew I had to go there.

Q Who told you to go to the eleventh floor? A Nobody told me

Q Why didn't you pick out the thirteenth floor or some other floor? A No, the eleventh floor was more important.

Q How did you know the eleventh floor was more important than any other floor in that building, cannot you answer that? A No

Q Or don't you want to answer it? A I cannot answer that question.

Q Whom did you ask to see when you reached the eleventh floor? A I stepped inside and a gentleman came over to me and asked me who I was looking for and I said I prefer talking to anybody, and so he spoke to me and told me to take a seat, and I

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seated, and he asked me what I wanted and I told him "I came here because I lied in court on the witness stand" and so he asked me, he said "What did you lie about" and I told him, I said "There was two detectives made me lie to say I had seen the whole shooting match about Shilitano."

Q Didn't you as matter of fact go to the twelfth floor instead of the eleventh floor? A What is that?

Q (Question repeated)? A The twelfth -- well, maybe it was the twelfth floor.

Q Then you did not tell the elevator man you wanted to go to the eleventh floor, did you? A No.

Q What did you tell him? A Probably I must have made a mistake.

Q When did you make a mistake, then or now? A Now.

Q Do you know what you told the elevator man when you got to the World office? A No, I do not.

Q You don't remember that? A No, I do not.

Q Your memory is very poor to-day? A No, sir, it is not.

Q When did you first find out you had lied ~~about~~^{upon} the trial in this case, as you now claim? A The night I went to confession.

Q Didn't you know you had lied before you went to confession? A Yes.

Q What? A Yes, sir, I did.

Q Why didn't you say something about having lied prior to that time? A Because they told me if I said anything they would have killed me.

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Q Who told you that? A The two detectives.

Q That was on the day when they first spoke to you, the 5th of May? A Yes.

Q But that was the only time they told you that they would kill you? A Yes.

Q You did not confess until Lent of this year? A Yes.

Q Almost two years after the 5th of May? A Yes, sir.

Q Is not that right? A Yes.

Q Are you sure you were asleep on the night of the shooting?
A Yes, sir, positively.

Q Do you remember what time your brother came home? A No, sir, I do not.

Q Did you see your brother that night? A No, sir, I did not.

Q Did you see either one of your brothers that night? A No, I did not see nobody that night. I was sleeping.

Q Did you say to me at the Bar Association "One of my brothers got home stewed that night" -- did you say that? A No, sir, I don't use that word stewed.

Q You say you did not say that? A I did not.

Q Did I ask you this question, "Your brother got home drunk on the night of the shooting" and did you then say "Stewed, yes", and you were laughing? A I don't remember saying that.

Q Will you say that you did not say that? A I did not say it

Q Were you then asked this question, "Did your brother walk into the bedroom alone, or did somebody have to carry him", and did you say to me "Papa helped to carry him"? A Papa?

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Q Yes, did you say that? A No, I did not.

Q Will you say now that that question was not put to you and that you did not give that answer? A I did not give that answer.

Q Was the question put to you? A I don't remember.

Q Will you say it was not? A I don't know.

Q Do you know what your father was doing at the time? A No, sir, I do not.

Q Were you asked ~~whether~~ whether your father had gone to the front window to look out -- did I ask you that question? A I don't remember you asking me that question.

Q Did I ask you that question and did you give this answer, "No, to the fire-escape"? A I don't remember giving that.

Q Did you say to me that your father had gone to the fire-escape to look out? A No, sir.

Q Will you say now that you did not say that? A I did not say it

Q Are you sure about that? A Sure about it.

Q Did you say to me that William, your brother William, was drunk on that night and you should not pay any attention to him-- did you say that to him, A No, I don't remember saying that to you.

Q Will you say you did not say it? A No, I won't admit to that.

Q What? A I won't admit to it.

Q Do you remember seeing the ambulance take away some men

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who had been injured? A No, I did not.

Q Did you hear the ambulance coming? A No, I was fast asleep

Q Heard no racket at all? A No, no racket whatever until the following morning.

Q Did you hear a racket the following morning? A No, I heard a lot of people -- I heard the fellow with the newspapers around about the murder ~~that~~ happened Saturday night -- that is all I know.

Q Did you talk with your father and mother about the shooting of the night before? A No, sir, I did not.

Q Did you see any of the Shilitanos the next morning? A No, I did not.

Q Have you talked with anybody about this matter since the day that you were to the Bar Association and saw me there? A No.

Q Have you talked with Mr. Littleton about the case since then? A When was that?

Q Since the day that you were at the Bar Association? A I don't understand you -- explain yourself better.

Q Have you talked with any one about this case since you saw me at the Bar Association? A No, sir.

Q Have you talked with Mr. Littleton since then? A No.

Q Have you talked with any one connected with Mr. Littleton's office since that time? A No, sir.

Q Have you talked with anybody connected with the Shilitano family since then? A No, none whatever.

Q You say now that you never worked in the Salvation Army?

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A The Salvation Army?

Q Yes? A Well, I told you I worked uptown -- I worked in the Salvation Army, but not on 14th street, as you claim.

Q Didn't I ask you about the Salvation Army yesterday?

A Yes, but I really didn't know -- I did not get you then.

Q What? A I didn't really get at you then when you told me about the Salvation Army.

Q You heard me say Salvation Army? A Yes, sir, but I did not mean all that -- I did not pay any attention to that word.

Q You did work in the Salvation Army? A Yes, sir, I did.

Q Where was that? A Uptown.

Q Where? A 18th street.

Q It was not 14th street? A No, sir, they have two places, 14th and 18th.

Q You did not work at the 14th street place at all? A No.

Q Sure about that? A Positive.

Q How long did you work there? A Where, in 18th street?

Q In the Salvation Army? A I worked there one week and then I was laid off.

Q Only one week? A One week.

Q Sure of that? A Positive.

Q Weren't you working there longer than one week? A No, sir.

Q Weren't you working there between January 29th and February 19th? A No, sir.

Q Sure about that? A Sure about it.

Q How many years ago is it since you worked there? A I worked

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there this year.

Q You started to work on what day? A I don't remember the date.

Q Was it not January 29th? A No, I don't remember; I won't tell a lie.

Q You signed the pay roll every week that you worked there?
A Yes.

Q And you signed the pay roll at the end of each week? A No, sir, I don't remember signing --

Q What? A No.

Q How often did you sign the pay roll? A Every week.

Q How often -- you say you were there only a week? A Once a week, every time I was paid.

Q You said you worked there one week only? A Well, one week I only signed for one week, my pay.

MR. WYLLIE: I do not want to object to anything, but I think they are going far afield. I know that the latitude is wide, but are they intending to impeach the general credibility of this witness, or trying to discredit her on certain things?

THE COURT: I gather that is somewhat the purpose of the prosecution.

MR. WYLLIE: They are trying to discredit their own witness in general.

MR. WASSERVOGEL: Hardly.

THE COURT: You do not go as far as that?

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MR. WASSERVOGEL: No.

BY MR. WASSERVOGEL:

Q Here is your signature at the time you signed your name, Nellie DeCarlo? A Yes.

Q That was the only time you signed your name for wages? A Yes.

Q Is that right? A Yes.

Q You say that was for one week's wages? A Yes.

Q Didn't you sign your name the following week when you received six dollars -- isn't that your handwriting also (showing another paper to the witness)? A Yes.

Q So that is the second time you signed your name, isn't it? A Yes.

Q I show you another signature, and I ask you if you did not also sign your name there? A No, sir.

Q That is not your handwriting? A No, sir.

Q Sure about that? A Positive.

Q So that you now admit that you did work there longer than one week? A I remember now.

Q Why was it that you told us yesterday that you did not work for the Salvation Army at all? A I did not work on 14th street

Q I asked you if you worked for the Salvation Army, did I not? A Yes.

Q You knew you had worked there? A Yes.

Q You told us that you had not worked there at any time, didn't you say that? A Yes.

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Q I asked you if you knew a woman by the name of Pickhaver?

A I don't know such a name.

Q Why did you leave the Salvation Army? A Why did I leave?

Q Yes? A They laid me off, they said there was no more work.

Q Didn't you leave there because you were discharged because you had stolen some towels? A I had stolen some towels?

Q Yes? A Mr. Wasservogel --

Q Is that the reason you left? A Oh no.

Q You say now you do not know Mrs. Pickhaver? A I don't know such a name -- I stole? I never stole anything in all my life. Mrs. Goodman was there, she left money and jewelry in her home and I never stole anything, and she is there to prove those things -- stealing -- oh God!

(A lady is now brought into the court room)

BY MR. WASSERVOGEL:

Q Do you know that lady, did you ever see her before? A I don't know her.

Q Never saw her before --

(The name of the lady just brought into the court room is Mrs. Kate Pickhaver).

BY THE COURT:

Q Did you ever see her before? A No, sir -- I never stole anything.

BY MR. WASSERVOGEL:

Q You still claim that you did not work at the 14th street

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barracks of the Salvation Army? A Yes.

Q You never were there? A No, I did not work there, not 14th -- I worked on 18th street.

Q Did you tell Mr. Wylie yesterday that when you were first taken to the office of ~~xxx~~ the District Attorney you said that at the Coroner's Court you had made some mistakes in your testimony, did you say that to Mr. Wylie yesterday? A Yes, sir, yesterday.

Q What mistakes had you made before the Coroner? A Mistakes I had made before the Coroner?

Q Yes? A Well, the things I had said.

Q When you first came to the District Attorney's office, did you tell anybody connected with the District Attorney's office that you had made a mistake in the Coroner's Court? A No, sir, I don't remember saying that.

RE-DIRECT EXAMINATION BY MR. WYLIE:

Q You say when you first saw Gambardella and Degilio on May 5th, that you knew who Leo was? A I did.

Q You had seen him around the neighborhood? A Yes.

Q Do you know if he had noticed you? A Yes, sir.

Q Do you know if he knew where you lived at that time?

A Yes, he knew where I lived.

Q Did those two detectives ever come to Mrs. Goodwin's to see you? A No, sir.

Q Do you remember you told Mr. Wasservogel yesterday that when you met your father coming out of the court room at the trial

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after he had testified, you said he had lied -- why did you say he had lied? A Because they told me to say that he was lying.

Q Who said that? A Leo and Degilio, both of them told me to say that.

Q Who did they tell you to tell it to? A Pardon me.

Q Who did they tell you to tell that to? A What?

Q Who did Leo and Degilio tell you to tell that your father had been lying? A They knew he was lying -- they knew he was lying.

THE COURT: You had better get an answer to that question

Mr. Wylie.

BY MR. WYLIE:

Q Exactly what did Leo and Degilio say when they told you to say that he was lying? A What did they tell me to say -- they told me to say that he was lying because he knew he was going favored with the Shilitanos.

BY MR. WYLIE:

Q Who did they tell you to tell that to -- did they tell you to tell that to Mr. Wasservegel? A No.

Q Who did they tell you to tell it to? A They told me to tell Mrs. Goodwin.

Q To tell Mrs. Goodwin? A I told Mrs. Goodwin that, surely.

Q This time when you saw Gambardella and Degilio in the grocery store, was Vitacca present at that time? A Who was that?

Q Was Vitacca present? A Both of them were present when they both spoke to me.

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Q Was Vitacca, the owner of the grocery store, in the same room with you? A No, he was not, he was behind the counter.

Q You were in another room? A Yes, I was in another room.

Q A room behind? A Yes, sir.

Q Mr. Wasservogel asked you several times yesterday whether you had ever complained to the police or the District Attorney that the police officers had struck and threatened you -- did you ever complain to him, A No, I never did.

Q You never went to the police and complained that certain policemen had struck you? A No.

Q Why didn't you? A Because they told me not to say anything -- they told me if I said anything they would hit me or they would kill me.

Q Mrs. Goodwin got you that position in Loft's? A Yes, sir.

Q Did she get you any other position? A No, no other position

Q At the time you met your father when you were going with Leo and Degilio to the Police Headquarters, did they say anything to your father? A No, sir, they did not say not a word to my father.

Q Did your father try to go to Headquarters with you? A No.

Q He did not want to accompany you there? A No.

Q Did you ever hear any one testify in this case against Shilitane, in the Grand Jury room? A No, sir, I don't know.

Q or the Coroner's Court? A No, sir.

Q Or any other court room? A No.

Q At the big trial? A No, sir.

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Q You illustrated a few minutes ago for Mr. Wasservogel, the way you showed Mr. Wasservogel in his rooms how Shilitano was hit by Officer Heeney? A Yes.

Q Did you see Heeney hit Shilitano? A No, sir.

Q Did you tell Mr. Wasservogel at the Bar Association that the man you went to see at the office of the New York World was the editor? A Yes, sir.

Q How long were you at the Bar Association with Mr. Wasservogel? A I was there almost half a day.

Q Did he examine you closely? A Why, yes.

Q Asked you a great many questions? A Yes, he did.

Q Did you cry at any time? A I did not.

Q Who was in the room? A He and two gentlemen there that was writing down what I was saying, and there was another young lady with me, the one that took care of me after Mrs. Goodwin had left me.

Q Who was she? A Well, the editor -- I don't know --

Q A reporter for the World? A Yes, sir.

Q Had she taken you there? A Yes, she took me there.

Q Did you ask her to take you there? A No.

Q Did she tell you that Mr. Wasservogel wanted to see you?

A Yes.

Q Did you go of your own free will? A Yes, sir.

Q You did not want to see Mr. Wasservogel? A No, sir.

Q Did you tell Mr. Wasservogel that day that you had seen the shooting, or did you tell him that you were in bed and asleep

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and had not seen the shooting? A I was in bed asleep that day but I did not see nothing at all.

Q That was what you told him that day at the Bar Association?

A Yes.

Q After he examined you for half a day? A Yes, sir.

Q Did you ever see me before you got on the stand yesterday?

A No, yesterday was the first day I saw you.

Q Did you ever see Mr. Littleton in your life? A Yes.

Q Whereabouts? A At his office.

Q Are you sure it was not Mr. Brown of Mr. Littleton's office? A Well, I won't admitte it -- yes, Mr. Brown rather -- I beg your pardon.

Q Were you asked many questions at Mr. Littleton's office?

A No, sir, not many.

Q Were you just asked about the affidavit you made at the World office? A Yes, that was all.

Q And asked to read over another affidavit to compare it with the one you made in the World office and see if they were alike?

A Yes, sir.

Q And then were you asked if you had anything to add to it?

A Yes.

Q Or take away from it? A Yes.

Q And then did you sign it? A Yes, I did, I say I would have it remain just the way it was.

Q Was that all you were asked down there? A Yes, that was all I was asked down there -- pardon me, Mr. Wasservogel - could

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that lady swear under oath I had stolen -- that is a terrible thing to say. Mrs. Goodwin knows, I was with her ten months, and she knows I did not take anything in her home, and I go and steal towels? -- could she swear under oath -- if there is a God above --

BY THE COURT:

Q You consider stealing a very serious thing? A No, I swear --

Q You consider it a very serious thing? A I never stole.

Q You do consider it very serious? A Yes.

Q Do you consider it more serious than testifying falsely?

A No, sir, but I swear Your Honor that I never stole anything, never. I was working in Loft's and you can go there and ask Mr. Loft. I was not bounced out of there, I was laid off because there was no work. They cannot say I stole -- Oh God!)- Mrs. Goodwin left jewelry and money and bills in her home and she knows I never took a thing. She left it there purposely, just to see if I was truthful and she knows that ten months I was there, and she knows I never took a pin and she said "You are a very truthful girl", and Mr. Wasservogel, she also said it to you, you could swear she often spoke to you like that and said I was a very truthful girl in the home and never took anything that did not belong to me. That is a thing that is unjust.

BY MR. WYLIE:

Q You know you did wrong by swearing to a lie on the trial?

A Yes, sir, I did.

Q You believe you are doing the right thing by telling the

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truth now? A Yes, sir, I am.

J O H N V E R N O, called as a witness, being duly sworn and examined, testified as follows:

(Residence 285 Mott Street).

DIRECT-EXAMINATION BY MR. WYLIE:

Q Where did you live on May 3rd, 1913? A 285 Mott Street.

Q Did you testify on the trial of The State against Oreste Shilitano, in the latter part of February 1914, as a witness for the People? A Yes.

Q Did you make an affidavit in the office of the New York World on March 8th, 1915? A Yes, sir.

Q I show you a paper and I ask you to look at it or read it and tell me if that is the paper you signed in the office of the New York World on March 8th? A I am not working for these people now (indicating a name on the paper shown him).

Q I just ask you if that was the paper you signed at that time in the office of the New York World? (The witness reads the paper).

Q Did you sign that affidavit? A Yes.

Q Did you also sign an affidavit in the office of Mr. Littleton? A Yes, sir.

Q 149 Broadway? A Yes, sir.

Q Will you just look at that and tell me if that is the affidavit you signed there? A Do you want me to read it all?

Q No, just look at the signature? A Yes, sir.

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Q You signed that? A Yes.

Q Are you married, A Yes.

Q Have you any children? A Yes.

Q How old are your children? A The biggest one is seven years old.

Q How old is the other? A Two.

Q How old are you? A Twenty-seven.

Q Are you employed now? A Yes.

Q Whereabouts? A For the American Real Estate.

Q On the night of May 3rd, 1913, the night Rizzo and the two officers were shot, where were you in the evening? A At what time?

Q Where were you at 7 o'clock? A 7 o'clock I started for my mother's home.

Q From where? A From Mulberry Street, Mulberry and Prince-- came out of the barber shop.

Q Did you go to your mother's house? A Yes.

Q What time did you get there? A About half past seven.

Q How long did you stay at your mother's house? A I stayed there about two hours and a half.

Q What time did you leave? A About 9:30.

Q Where did you go? A Went home.

Q Where did you live? A 285 Mett Street.

Q Where did your mother live? A 305 & 307 East 118th.

Q How did you get down from uptown? A 3rd Avenue elevated.

Q Anybody with you? A No, sir.

Q Anybody at your mother's house when you were there?

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A Just my sisters.

Q What did you do when you got home? A Got home and went to bed.

Q When you got home you went to bed? A Well, not right away I stayed up about half an hour or so.

Q Did you stop any place at all between your mother's house and your own house? A No.

Q Did you go out after you reached your own house? A No, sir.
BY THE COURT:

Q What time was that? A 10:30.

BY MR. WYLIE:

Q When did you first hear of the shooting? A The next day.

Q How did you hear? A Through the newspapers.

Q What newspaper? A The Evening Telegram.

Q Did you know Rizzo? A Yes, sir.

Q Did you know him well? A I know him for about three years

Q Did you know Shilitano? A Yes.

Q Did you know him well? A Yes.

Q How long have you known him? A Since childhood.

BY THE COURT:

Q How long, A Since childhood, been brought up together.

BY MR. WYLIE:

Q When did you hear about the case again? A What do you mean?

Q After the next day? A Oh well, I always heard about it through the newspapers -- not from anybody, but through the newspapers.

Q When were you first seen by a police officer? A About a

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month and a half after.

Q Who was the police officer, do you know? A Detective DeMartini.

Q When did you see Leo Gambardella, the detective? A That is the party I mean -- I forgot his name -- he was the first man that came to me. He brought me up to the District Attorney's office. He was the first man.

Q You want to correct that -- it was not DeMartini you first saw? A No, it was Leo Gambardella.

Q Did he give you anything when he came to you? A Yes.

Q What did he give you? A A subpoena.

Q Did you go with him any place? A He gave it to me at night and told me to report the next day.

Q Did he come down to get you the next day? A No, I reported myself.

Q Where did you go the next day? A To the District Attorney's office.

Q Who did you see? A Mr. Murphy.

Q Mr. Deacon Murphy? A Mr. Deacon Murphy, yes, sir.

Q What did he talk to you about? A Talked to me about the case.

Q What case? A About the Oreste Shilitano case.

Q What did he ask you, A He asked me what did I know about it.

Q What did you tell him, A I told him nothing.

Q How long did he keep you there? A Must have been about

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forty minutes.

Q Any one else there? A Yes, sir, a stenographer was there.

Q They took a statement? A Yes.

Q You did not sign anything? A That I don't remember.

Q Where did you go when you left there? A Reported to business.

Q What? A Reported to business.

Q Did you see anybody connected with the case, the next day? A No, sir.

Q When did you see Johnny Shilitano next? A Some time after that, I don't remember.

Q Shortly after or long after? A Well, it can be two or three weeks after.

Q What did you tell Johnny? A I told him that I was subpoenaed and went to the District Attorney's office.

Q Did you tell him what happened there? A Yes.

Q What did you tell him? A I told him that Mr. Murphy asked me all I knew about the shooting, and that I told him I simply knew nothing.

Q What did he say to that? A He could not say nothing because he knew I was telling I did not see anything. He could not say anything.

Q Did he say he was going to send a lawyer up to see you?
A No, sir.

Q Did he send a lawyer to see you? A Well, that was some time after that.

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Q How long after that was it? A About a month.

Q Had you been to the District Attorney's office prior to that, a second time? A No, sir.

Q Who came to see you? A Frank Aranow.

Q He was one of Oreste Shilitano's lawyers? A Yes, sir.

Q Did he talk to you about the case? A Yes.

Q What did he ask you? A He asked me what I knew about it.

Q What did you tell him? A I told him the same thing that I told Mr. Murphy.

Q Did you tell him you had been down to see Murphy? A Yes.

Q Did you tell him what you told Mr. Murphy? A Yes.

Q What did you tell Mr. Murphy? A I told him, Mr. Murphy, that I did not know nothing about it.

Q Mr. Aranow asked you to sign a paper? A Yes.

Q Did you? A Yes.

Q Did you sign a paper for Mr. Aranow which reads as follows -- I have not got the original paper, I am reading from the record on appeal -- "City and County of New York, ss: John Verno being duly sworn deposes and says that he resides at 285 Mott Street, New York City; that on the 3rd of May, 1913, about 10 or 10:15 P.M. I went to my home and remained there until next morning I did not leave the house after 10 o'clock that night. The first time I heard of the shooting of Rizzo and the cops was the next day through the Evening Telegram. I did not see either Rizzo or Shilitano that day or evening. I do not know who shot Rizzo or the officers. I heard no reports of shots. I went home at about

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11 o'clock that Sunday and two detectives took me to Headquarters where I remained about two hours. They questioned me as to what I knew about the shooting in Mulberry street the night before of May 3rd, 1913, and I truthfully said that I did not know of any shooting. I was permitted to go home. After that I first found out that Rizzo and the two officers were shot. I do not know who did it. I made the same statement to the District Attorney. I knew both Rizzo and Shilitano for about four years, but I did not see them since about the middle of April, 1913. " -- You had not seen either Rizzo or Shilitano since the middle of April, 1913, at the time you made this affidavit? A I did not see them for a long time.

Q You were arrested the night of the shooting, or the next day? A Well, yes, about 11 o'clock.

Q You were picked up by two officers? A Yes.

Q Who were they? A There was about six or seven of them, I don't know, I don't remember who they were.

Q You have been convicted of a crime once? A Yes, sir.

Q Who did you see next about the case after you made the affidavit for Mr. Aranow? A Then I was subpoenaed to go to the District Attorney's office again.

Q Who subpoenaed you that time? A Mr. DeMartini.

Q Did you go down to the District Attorney's office? A Yes.

Q The next day? A Yes.

Q With any one? A No, sir.

Q Who did you see that time? A Mr. Murphy.

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Q How long were you with Mr. Murphy? A From half past ten in the morning until 4 o'clock in the afternoon.

Q Any one else with Mr. Murphy? A Detective DeMartini.

Q And a stenographer? A Yes, sir.

Q A man that took down what you said? A Yes, sir.

Q Did they keep you in that room all the time? A Yes, sir.

Q Did they ask you questions? A Yes.

Q Both of them? A Yes, sir.

Q About the shooting? A Yes.

Q Did you tell them that you had seen the shooting? A No.

Q Did they threaten you at all? A No --

MR. WASSERVOGEL: Let him say what they did.

BY MR. WYLIE:

Q What did they say or do to you? A Not that day, they did not say nothing to me, but Mr. Murphy told the stenographer to make out papers and put me in the House of Detention. So I asked Mr. Murphy what was the reason he put me in the House of Detention so he said "I am going to hold you there until I get the facts from you."

Q Did DeMartini say that you had seen the shooting? A Yes, he was telling Mr. Murphy that I was there at the time, and that was the reason Murphy put me in the House of Detention.

Q Did you go home after that interview? A That day?

Q Yes? A No, sir, I went to the House of Detention.

Q Who took you there? A Detective DeMartini.

Q Any one else take you? A No.

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Q How long were you there at that time? A In the House of Detention?

Q Yes? A Twenty-four days.

Q When did they bring you out of the House of Detention next, after they first took you there? A Eleven days after.

Q During those eleven days did any one come to see you there? A Yes.

Q Who came? A Detective DeMartini.

Q Any one else? A Yes, sir, Detective Fogarty.

Q What time of the day would they come to see you? A Six or seven in the evening.

Q How long would they stay? A Half an hour or an hour.

Q Ever any longer than that? A It could be an hour and a half.

Q Did Fogarty do most of the talking or DeMartini? A Mr. DeMartini.

Q Did they talk to you together? A With Mr. Fogarty -- they were in the same room.

Q Both at the same time, they were both there? A Yes, sir.

Q Always? A Yes, sir.

Q What would they say to you at these interviews? A Why, they told me to tell them -- they were telling me that I knew something about the shooting and I was a stiff telling them that I did not, and Mr. DeMartini told me that if I did not weaken why I would be caught for perjury.

Q Did he tell you that more than once? A Every time he came

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up to me he told me.

Q Did he ever speak to you about your previous conviction for a crime? A Yes.

Q What did he say about that? A He said "You have a record and with that I can have you sent away again" and so I told him "You cannot do nothing of the kind, because I simply know nothing about the shooting and I don't want you to bother me."

Q Is that a description of all the interviews? A Well, the first time he told me, that was at my home.

Q At your home? A Yes.

Q When did he tell you that? A He told me that when my wife was present.

Q Who told you that? A Detective DeMartini.

Q When he came to serve you with a subpoena that brought you down to the District Attorney's office for the second time? A Yes, sir.

Q Your wife was present at that time? A Yes.

Q What did he say then? A He said "Here is a subpoena for you, and report to the District Attorney's office." So I told him "It is no use for you subpoenaing me. If Mr. Murphy wants to see me I will go without your coming for me." So I told him -- I don't know -- we had a little talk there -- and he said "If you don't stop your talking I will have you convicted for perjury."

Q Did you tell him at that time you had not seen the shooting? A Yes.

Q Do you remember Fogart and DeMartini came to see you on

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the 22nd of February? A Yes.

Q Will you describe that interview you had with them -- describe what took place? A When they came to the House of Detention?

Q Yes? A They came over and told me that if I would not weaken or satisfy Mr. Murphy, they would put me across in the Tombs.

Q How long were they with you at that time on the 22nd of February? A About an hour and a half as I can remember.

Q What did they talk about all that time? A About the case.

Q Insisting that you knew something about it? A Yes.

Q What did you say? A I told them I did not know nothing.

Q Did you tell them that you had made an affidavit for Mr. Aranow? A Yes, sir.

Q What did they say to that? A They said "If you tell us something about the case, we can fix that affidavit up for you." They told me if I would tell them something about the case that they would fix that affidavit up for me. I told them I made an affidavit to the lawyer I did not know nothing about it and they wanted me to satisfy Mr. Murphy and I told them I had made an affidavit to Mr. Aranow and I think that would go against me.

Q Did they say who they would fix the affidavit with? A No.

Q What did you finally say to them? A Well, he promised me he would let me go home if I would say something about the shooting.

Q They said they would let you go home if you would say

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something about the shooting? A Yes.

Q Did you say you would? A Provided they would let me go home. That was the best way I could get out of it -- I had a family home to support, and I got to see some way to support them.

Q Who was supporting them? A I was supporting them.

Q Who was taking care of them when you were in the House of Detention? A My mother-in-law.

Q Had you seen them since you had got in the House of Detention? A Yes -- my wife used to come up and see me every day.

Q Did you finally tell them that you would say something about the case? A Yes.

Q What did they do to you then? A What do you mean?

THE COURT: Have you fixed the time, Mr. Wylie?

MR. WYLIE: February 22nd -- it has been fixed.

BY MR. WYLIE:

Q Did they let you go then? A No, they did not let me go home.

Q Did they let you come out of the House of Detention? A No, they kept me there.

Q Did they escort you home? A Well yes, Detective Fogarty took me home for a change of clothing.

Q Did you see your wife and family when you were there? A Yes

Q Did they take you out again before the trial and let you go home? A They took me on two or three times.

BY THE COURT:

Q Fogarty and DeMartini? A Yes.

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BY MR. WYLIE:

Q Did they let your wife come to see you oftener after the 22nd of February? A After the case, they would not permit her to come in any more.

Q What? A After the case they would not permit her to come in any more.

Q After you said you would say something about the case did they let your wife come every day then? A Yes, sir.

Q How long did you stay in the House of Detention altogether? A Twenty-four days.

Q Were you allowed to leave right after the trial? A After?

Q After you testified in the trial were you allowed to leave? A That was what they promised me.

Q Did they keep their promise? A Well, Mr. Murphy says "As soon as you tell me something about it, I will let you go home."

Q But they did not let you go? A But he did not keep his promise.

Q When did you finally get out of the House of Detention?

A I came out with the rest of the boys.

Q When was that? A March 6th.

Q Where did you see Johnny Shilitane after the trial?

A About a month and a half after.

Q Did he come and see you? A No, I went to see him.

Q Had you told any one else except your wife up to this time, that you had lied at the trial? A No, sir.

Q What did you say to Johnny Shilitane when you saw him?

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A I told him I knew I had done wrong.

Q What did he say? A He said "Well, if you know you done wrong, why don't you tell the truth about it; in case of an appeal why don't you tell the truth about it." I said "When you need me you can always get me."

Q Did you realize when you testified on the trial that you were swearing away Oresto Shilitano's life? A Yes, sir.

Q Did you realize he was going to be put to death for what you said? A No, I did not think so.

Q What did you think was going to happen to him? A I thought he would get four or five years, at the most would be six years.

Q Did your conscience trouble you at all at any time for what you had done? A Yes, sir, they did.

Q You have seen Johnny Shilitano since that time? A Yes.

Q And talked to him about the case? A Yes.

Q Have you told him you have been ready to testify? A Yes.

Q Did Johnny Shilitano ever ask you to change your testimony? A No.

Q Did he come to you first and tell you to do so? A No.

Q Did he threaten you in any way? A No.

Q Did any one ever do that? A No.

Q Why do you change your testimony? A Well -

Q Why do you now say you lied on the trial? A Why, I don't want to see any one lose their life on account of me.

Q You testified on the trial that you saw Oresto Shilitano draw a revolver and shoot Rizzo? A Yes, sir.

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Q And more details of the occurrence, and you then ran in the grocery store? A Yes.

Q Is that true? A No, sir.

Q Did you see anything of the shooting at all? A No, sir.

Q Do you know anything about the shooting? A What I know I know through the newspapers.

Q Did DeMartini and Fogarty tell you what to testify to on the trial? A Did not exactly tell me what to do, but they said "as long as you say something about it to satisfy Mr. Murphy, why everything will be all right."

Q Did you tell them what you were going to say? A Yes.

Q Did you tell them you were going to describe the clothes the men had on? A No, sir.

Q Did you tell them you were going to say you saw one or both of them in poolrooms? A No, sir.

Q Did you just make those details up out of your head?
A Yes, sir, because I know that they generally go in poolrooms.

Q Did you talk to any of the other witnesses in the House of Detention? A Oh yes.

Q And did they tell you what they were going to testify to?
A No.

Q Did you tell them what you were going to testify to? A No.

THE COURT (to the witness) You will come here to-morrow without subpoena, and without fail, do you understand?

THE WITNESS: Yes.

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THE COURT: We will now take an adjournment until two o'clock to-morrow afternoon.

The hearing is adjourned until September 22nd, 1915,
at 2 P.M.

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New York, September 22nd, 1915,

Hearing resumed.

J O H N V E R N O resumes the stand:

DIRECT EXAMINATION CONTINUED BY MR. WYLLIE:

Q Did you ever tell the police that certain police officers had threatened you and forced you to testify falsely? A Did I ever tell them?

Q Yes? A No, I never told them.

Q Were you paid any money for the time you were in the House of Detention? A I think I was entitled to it.

Q You were paid? A Yes.

Q How much? A \$72..

Q When did you get that money? A About a month after.

Q A month after you left there? A Yes.

Q Do you know a police officer named Frederick Apfel? A No.

Q How did you come to make the affidavit in the office of the World? A John Shilitano came to me.

Q What did he say? A He told me to go down to the World office.

Q Did he tell you why? A No.

Q You told him of course, prior to that, that you were willing to testify now that you had sworn falsely on the trial? A Yes.

Q Did you go down that night? A Yes, sir.

Q Did you make the affidavit then? A Yes.

Q Did any one go with you at that time to the office of the

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World? A Yes, sir, John Shilitane and a World reporter.

Q He went down with you? A Yes, sir.

Q And a World reporter? A Yes.

Q Did they come and get you at some place? A No, sir.

Q When John Shilitane spoke to you about going to the office of the World, was there a World reporter with him? A Yes.

Q At that time? A Yes.

Q Where were you when they spoke to you? A They met me on the corner of Prince and Mulberry.

Q When you got to the office of the World, whom did you see there? A I do not know the name -- I saw the editor.

Q Were there several other people there? A Yes, sir.

Q Did they ask you questions? A Yes, sir.

Q Many questions? A Yes, sir.

Q For a long time? A For about fifteen minutes.

Q You told them about the case? A Yes, sir.

Q Then you signed the affidavit after that? A No, not after that, but the day after.

Q You came back? A Yes.

Q And they had it written out for you in the morning? A Yes, sir, because there was no Notary there.

Q After that, several months after that, I think in July, you went to the office of Martin W. Littleton, 149 Broadway? A Yes.

Q And made an affidavit there -- you signed a paper there?

A Yes, sir.

Q Do you remember what questions you were asked when you

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were there? A There were no questions asked, they just simply told me to read an affidavit.

Q You read it? A Yes.

Q Did you sign it then? A Yes.

Q Do you remember whom you saw there, the man's name? A No, I do not know the man's name.

Q You never saw me before you came on the stand? A No.

Q Would you know whether the man's name who showed you the affidavit down there, the paper which you afterwards signed, was named Mr. Brown? A No, I do not know. If I was to see him I would remember.

Q After you made the affidavit at the office of the World, did you receive a message from any one? A No, sir.

Q Did a reporter come to you? A No, sir.

Q How did it happen that you went to the Bar Association and saw Mr. Wasservogel there? A The World reporter came to my place of business.

Q What did he say? A He took me to Mr. Wasservogel.

Q Did he tell you that Mr. Wasservogel wanted to see you or what? A No, he did not tell me, he just simply said "You will have to report to Mr. Wasservogel."

Q And you went with him to the Bar Association in 44th street? A Yes.

Q Who was there when you were examined there? A Mr. Wasservogel and a stenographer.

Q Is that all? A That is all.

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Q Did not the reporter tell you that Mr. Wasservogel had sent for you? A No, sir.

Q You are sure of that? A Positive.

Q Do you remember this conversation at that time between yourself and Mr. Wasservogel -- Mr. Wasservogel speaking -- "Is there anything else that you want to tell me at this time" and you answered "Didn't you send for me; I understood that you wanted to see me. MR. WASSERVOGEL: Q You said you wanted to see me", and you answered "I wanted to see you? Q Well, I did not want to see you," and you answered "Well, the reporter came down to where I was working and he said to me you wanted to see me" -- do you remember that? A Yes.

Q Did you tell Mr. Wasservogel at the Bar Association that you had seen the shooting or that you had not seen the shooting? A I told him that I did not see the shooting.

Q How long were you there with him? A With Mr. Wasservogel?

Q Yes? A About an hour and a half.

Q Do you remember Mr. Wasservogel asking you these questions and you making these answers at that time, "Q What do you suppose will happen to you? A I could not tell you. Nobody has bothered me yet up until to-day. Q You are pretty fond of your wife and of the children, aren't you? A Yes. Q And you want to live? A Positively. Q You know what perjury is, don't you? A Perjury? Q Yes? A I think I know the meaning of the word. Q What does it mean? A It means that if anybody is caught in a lie, he will be convicted for it. Q Well, what do you say, did you lie in

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court? A I did. Q Do you know what that means? A It means perjury, just as I say. Q It means imprisonment? A Yes, that there has got to be proved." Do you remember him asking you those questions and you making those answers? A Yes, sir.

Q Do you remember him asking you these questions and you making these answers, "Q Did they tell you at any time how John Rizzo was dressed on the night of the shooting -- anybody tell you that? A Well De Martini, he said to me, he asked me how he was dressed and I told him, I said he had a coat on and he said no, he was in his shirt sleeves and I said then let it go, I will say he was dressed in his shirt sleeves. Q How did you come to say he had a coat on? A I says I think he had a coat on. Q Why did you say that? A Everybody wears a coat. Q Did you at any time say what kind of a suit Harry Shields had on? A No, sir. Q Didn't you say in court that he had on a gray suit? A Yes I did. I don't know whether I did or not. Q Didn't you say that -- did anybody ever say to you what kind of a suit he had on? A No, no, no, not that I remember, he always wore a gray suit. Q He always wore a gray suit? A Well, that is three or four months back he always wore a gray suit"-- now referring to those questions I have just asked you, do you remember whether those questions were asked you and you gave those answers? A Yes.

Q Do you remember Mr. Wasservogel at the Bar Association asking you these questions and you making these replies, "You would rather do a bit now of seven or eight or ten years for false swearing than be killed? A I don't see why I should do a

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bit for ten years. Q You don't think that perjury means anything? A It means a whole lot but I don't think I can be caught for perjury. Q You don't, eh? -- well, that is a matter to be decided later on; you realize Johnny this is a serious matter, a very serious matter? A Well, I won't hop any trains or I won't take any steamers. Q I know that? A I stay at 285 Mott Street with my wife; any time you want, you can get me; you go to work and put us in the House of Detention for what I don't know; that was not fair at all; we were not treated fair then; were not treated fair at all." -- Do you remember him asking you those questions and you making those replies? A Yes.

Q Do you remember Mr. Wasservogel at the Bar Association asking you ~~these~~ ~~these~~ questions and you making these replies, "Q Is there anything else you want to say to me? A Nothing at all. The only thing is that I want a square deal. Q Well, you will get a square deal if you tell ~~the~~ the truth; that is the only way you will get a square deal? A I don't want nobody to hound me. Q You will, if you don't tell the truth? A I will be put in the House of Detention? Q I don't know what will happen to you? A I don't want to be put in the House of Detention. I will refuse to answer any questions. Q I want the truth? A I have told you the truth. Q You have not? A All right, then, you know better than me, and that is the way DeMartini was getting at me, the way you are getting at me now." Do you remember Mr. Wasservogel asking you those questions? A Yes.

Q And did you make these replies? A Yes, sir.

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Q I want you to tell me again, did you see this shooting or didn't you? A No, sir, I did not.

Q Has any influence, threats or force been used by anybody on you? A No.

Q To make you now say that you lied on the trial when you stated there that you saw the shooting? A No, sir, nobody.

CROSS-EXAMINATION BY MR. WASSERVOGEL:

MR. WASSERVOGEL: If Your Honor please, may the record show that the sum of \$72. which was paid to this witness for the time he spent in the House of Detention was paid to him pursuant to an order made by Your Honor.

THE COURT: Yes.

BY MR. WASSERVOGEL:

Q Where do you live now? A 285 Mott Street.

Q Who owns that house? A What is that?

Q Who owns that house? A I don't know the owner.

Q Who is your landlord? A I really don't know.

Q Whom do you pay rent to? A Miss Mary Ann Mangin.

Q She is not related in any way to Shilitano? A No, sir.

Q Did you ever pay rent to Shilitano? A No, sir.

Q Do you know Michael Shilitano, the father of Oreste Shilitano? A Yes.

Q You were never his tenant? A No, sir.

Q Do you remember on the trial of this case before Judge Malone you were a witness, do you not? A Yes.

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Q And you were cross-examined by Mr. Koenig who was the attorney for Shilitane, you remember that? A Yes.

Q Mr. Koenig asked you if you were taken into custody on the night of May 3rd and you answered "Do you mean taken to Headquarters" and he said "Were you arrested" and you said "Taken to Headquarters, yes" -- were those questions put to you and did you give those answers? A Yes.

Q What time were you taken to Headquarters? A At 11 o'clock

Q When, morning or night? A At night.

Q The same night? A No, not the same night.

Q When -- you said here you were taken into custody on the night of May 3rd? A Well, I meant the next day.

Q The next day? A Yes.

Q Who took you into custody then? A What do you mean by custody?

Q Who took you to Headquarters? A There was several policemen.

Q And who were they, do you know, have you seen them since?
A No.

Q Where did they find you? A They found me at my home.

Q Did you talk with the police before you went to Headquarters? A No, sir.

Q Did you ask them why they were taking you to Headquarters?
A No.

Q Were you not interested to know why those police officers should take you to Headquarters? A No.

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Q Not interested to know that, why not? A They just simply took me, and that is all. They wouldn't give you no answer.

Q And you did not ask them any questions? A Why should I waste any breath or waste my time on them?

Q How often have you been taken to Headquarters in that way?
A This is the only time.

Q Nevertheless you did not ask them why they were taking you to Police Headquarters? A No.

Q When you arrived at Headquarters, whom did you see? A I saw a big man, I don't know his name.

Q Commissioner Dougherty was it? A Yes.

Q Was it Commissioner Dougherty or Inspector Fauret, which was it? A I don't know the difference between them.

Q Did you talk with that man whom you saw there? A Yes.

Q What did you say to him? A He asked me if I heard anything of the shooting and I told him I did not.

Q How long did you remain there? A About three hours.

Q You went back home? A Yes.

Q Did you sign any papers that night? A No.

Q You have known Oreste Shilitane for a great many years?

A Yes, sir.

Q You were boys together? A Yes.

Q And played together as boys and grew up together? A Yes.

Q When was it you were convicted? A I believe it was in the year of 1909 or 1910.

Q 1909 or 1910? A Yes.

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Q I think it was 1909 -- your case came up before Judge Malone, did it not? A Yes, sir.

Q And you were sent to Elmira? A Yes, sir.

Q Was there any co-defendant in that case with you at that time? A No, sir.

Q Wasn't there any other defendant in the indictment in that case? A Just me and him.

Q What do you mean by that ?

Objected to. Objection overruled. Exception.

Q What do you mean by me and him? A I and Shilitano.

Q Oreste Shilitano the same person who is the defendant in this case was a co-defendant in that case? A Yes, sir.

Q Both cases came up before Judge Malone at that time? A Yes.

Q How long after the trial did you first see Johnny Shilitano? A A month and a half after.

Q Where did you see him then? A On Mulberry street.

Q Did you have an appointment to meet him? A No.

Q Met him by accident? A Accidentally.

Q Did you speak to him first or he to you first? A No, simply hello.

Q Was that all that was said, simply hello? A I told him that I had done wrong.

Q What did you say at that time? A I told him that I had done wrong, that I swore false on the trial.

Q What did he say? A He said "Well, if you did, why, in case there is an appeal, why, you will tell the truth."

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Q Did he offer to take you to a lawyer at that time? A No.

Q Were you not taken to the office of Mr. Littleton? A Yes.

Q At that time? A No, sir.

Q How long after that was it that you were taken to Mr. Littleton's office? A It was only here lately.

Q Were you not taken to Mr. Littleton's office before you went to the World office? A No, sir.

Q Sure about that? A Positive.

Q When did you next see Johnny Shilitano after the first meeting? A Some months after.

Q How long will you say? A I met him in July and I saw him again you could say in December.

Q You did not see him between July and December at all?

A No, not that I can remember.

Q You lived in the same place in Mott Street all the time, did you not? A Yes.

Q But you did not meet him then for about six months? A That is it.

Where

Q ~~Where~~ did you meet him then? A On 3rd avenue.

Q Did you have an appointment with him then? A No.

Q Did you talk with him then? A No.

Q Did not say a word to him? A No.

Q Did he say anything to you? A Just saluted me.

Q Is that all? A Yes.

Q He said helle and passed you? A Yes.

Q Did not say anything about the case at that time at all?

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Q When did you next see him? A Here lately.

Q How long ago? A When the World reporter was with him.

Q Did you see Johnny Shilitano before you went to the office of the World? A A couple of days after.

Q Didn't you see him before you went to the World? A I meant to say before.

Q You mean before you went to the World office? A Yes.

Q Where did you see him then? A In front of my home.

Q Was he about to call for you, is that why you saw him in front of your home? A Yes.

Q He was just coming into your house? A Yes.

Q And you met him at the entrance? A No, I was upstairs.

Q Then he came into your rooms? A No, he did not come into my rooms. He was downstairs and he sent up for me.

Q Somebody came into your rooms and told you Johnny Shilitano was downstairs and wanted to see you? A Yes.

Q You went downstairs, didn't you? A Yes.

Q You saw him there? A Yes.

Q Did you talk with him? A Yes, the World reporter was with him.

Q What talk did you have with Johnny Shilitano at that time? A He simply introduced me to the World reporter and the World reporter asked me if I was willing to go down to the office with him.

Q Did you know Johnny Shilitano was coming there with the World reporter that day? A No.

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Q Did you know Johnny Shilitano was coming there at all that day? A No.

Q Did you go to the office of the World the same day? A The same night.

Q Who went with you? A John Shilitano and I and the World reporter.

Q Who did you see at the World office? A I saw the editor there, I don't know his name.

Q You did not make any statement at that time, or sign any statement rather? A I did not sign it. I made it but I did not sign it.

Q You went there again the next day and did sign a statement? A I did not go there, but the World reporter came to my place of business.

Q With the statement written out? A He had Mr. Taylor, my former boss, to sign it.

Q What do you mean, what did Taylor have to do with it?
A Because he is a Notary.

Q You mean to say you signed it before Mr. Taylor who was the Notary Public? A Yes, sir.

Q Mr. Taylor is your employer? A Yes, sir.

Q Who was the first detective that spoke to you about this case? A Leo Gambardella.

Q Leo Gambardella did not ask you to testify to any particular state of facts? A No, sir.

Q Did Leo Gambardella tell you anything that you should say

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in court in this case? A No.

Q Did other persons speak to you regarding this case? A You mean detectives?

Q Yes, detectives? A DeMartini.

Q Is there any other person who spoke to you on the Detective Force? A Detective Fogarty.

Q Are those the only men connected with the Police Department who spoke to you about this case? A There was more but I don't know their names.

Q Tell us who they were? A I don't know their names.

MR. WYLIE: To make that clear, ask him or tell him what you mean -- you say spoke to him about this case -- he has already testified to that -- you mean told him what to say?

BY MR. WASSERVOGEL:

Q I want to know all the men connected with the Police Department who spoke to you about this case? A There was so many men in your office and so many men in Mr. Murphy's office, I don't know their names.

Q Give me the names of all you can recall? A All I can remember?

Q Yes? A Leo Gambardella, Detective Fogarty and Detective DeMartini.

Q No one else you can recall? A No, I don't remember their names -- I don't know their names, rather.

Q What, if anything, did DeMartini tell you that you were to

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say in court? A He did not tell me to say nothing.

Q What, if anything, did Fogarty tell you that you would have to say in court? A He had very little to say to me.

Q What did Fogarty tell you to say in court, if anything? A Nothing. I am not saying that he told me.

Q Not a word? A I am not saying that he told me.

Q Just answer my question, is there a single thing Fogarty told you to testify in court? A Can't I talk?

THE COURT: You will answer the question.

BY MR. WASSERVOGEL:

Q You understand the question? A Yes.

Q Please answer it? (The question is repeated) A No, sir.

Q Is there a single thing that any other man connected with the Police Department told you to say in court? A No, sir.

Q Is there a single thing that any person connected with the District Attorney's office told you to say in court? A No, sir.

BY THE COURT:

Q You say "no"? A No, sir.

BY MR. WASSERVOGEL:

Q When you were a witness for the State upon the trial of this case, you were asked the question "Did you see John Rizzo on the night of the 3rd of May of last year" and you answered "Yes". Is that correct? A Yes.

Q That question was put and that answer given by you? A Yes.

Q "Q Where did you see him that night? A I saw him in the poolroom". Was that question put and answer given? A Yes.

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Q "Q What poolroom do you refer to? A 135 Mulberry street. Q 235? A 235." Were those questions put and the answers given? A Yes.

Q "Q Near what street is that? A In Mulberry street between Prince and Spring." Was that question put and that answer given? A Yes.

Q "Q Did you see Oreste Shilitano that night? A Yes." Is that right, was that question asked and that answer given? A Yes.

Q "Q Where did you first see him? A In the poolroom, the same poolroom." Is that correct? A Yes.

Q "Q At about what time did you see Rizzo and Shilitano in the poolroom, about what time? A Quarter to twelve." Was that question put to you and the answer given? A Yes.

Q "Q Did you see either of those men leave the poolroom? A Yes. Q Did you see him go out? A Yes. Q Which one went out first? A Oreste, the defendant." Were those questions put and answers given? A Yes.

Q "Q How long after the defendant left the poolroom did Rizzo go out? A About five minutes. Q Did you also go out on the street? A Not right after. Q How long after? A About ten minutes after." Were those questions put and the answers given by you? A Yes.

Q "Q When you went out on the street how far did you go in Mulberry street? A As far as 241." Is that correct? A Yes, sir.

Q "Q Did you see Oreste, the defendant, at that time? A Yes" A Yes.

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Q "Q How far was he from you then? A Just a little ways.

Q Indicate with the interpreter how far he was from you at that time? A About half a foot." Were these questions put and the answers given by you? A Yes.

Q "Q At that time where was John Rizzo? A In front of No. 239. Q What was he doing? A Simply standing there. Q In which direction was his face turned? A Towards Prince Street." Were these questions put and the answers given? A Yes.

Q "Q Do you remember how he was dressed? A Shirt sleeves. Q That is, he had no coat on? A No coat. Q Do you remember whether he had a vest on or not? A No, he did not have no vest". Did you answer the questions which were put to you as I have read them? A Yes, sir.

Q "Q Do you remember whether he had a hat on or not? A No, I could not say." Is that correct? A Yes.

Q Was this question then put to you: "Q As you were standing near the defendant, what did you see him do, if anything" and you answered "I saw him run out in the street and shoot Rizzo." Was that question put and the answer given? A Yes.

Q Then you were asked to stand up and to indicate the movements made by Oreste at that time, do you remember that? A Yes.

Q Just stand up a minute and just indicate to us as you did then? A I don't know.

Q What he did before the shooting? A I don't remember.

Q Don't remember that? A No, sir.

Q Do you remember what you said? A Yes, I remember, but I

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don't remember the --

Q What did you say? A I don't remember the exact movements that I made.

Q What movements do you remember having made on that occasion in the court room? A I don't remember.

Q Did you say that he just put his hand in his back pocket and let go? A Yes, sir.

Q You remember that? A Yes, sir.

Q That was what you said? A Yes, sir.

Q Indicate to us, if ~~ax~~ you can, the movements made by you on that trial before Judge Malone? A I cannot.

Q You don't remember that? A No.

Q You know where the back pocket is? A Certainly.

Q You cannot recall now although you remember the answer that you gave? A I remember the answer.

Q You do not remember the movements? A I cannot.

Q Which were indicated by you? A I cannot do ^{it} the same thing.

Q Which back pocket did you refer to? A I don't know.

Q You mean your coat back pocket? A I have not no coat back pocket in my coat.

Q Of course not, but you have a back pocket in your trousers?
A Yes.

Q And the back pocket to which you referred at that time was your trousers pocket, isn't that right? A Yes, sir.

Q You made a movement towards your trousers pocket, didn't you, on that trial? A Yes, sir.

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Q You remember it now? A Yes, sir.

Q Just get up and show us again? A I cannot do it the exact way as I done it. I remember doing it.

Q Try and see how well you can do it at this time? A I remember doing it.

Q You are not afraid to stand up and try? A No.

Q You have not got anything in your back pocket now? A No.

Q You remember the question and the answer as I have read it to you? A Yes, sir.

Q You were asked this question, "Q Did you see the flash from the gun in the defendant's hand" and you said "Yes" -- and whether you heard the report of the pistol shot and you said yes and "Q Did you see what happened to Rizzo? A He fell down." Were those questions put and the answers given? A Yes.

Q "Q What did you do? A I simply turned around and went into 243, a grocery store. Q What did you go in there for? A I was afraid that one of the bullets would go wild and I would get it." Were those questions all put and answers given as I have read them? A Yes.

Q Was this question put to you, "Q Before you came down to the District Attorney's office on the 21st of February, did any one speak to you about the statement that you were going to make when you came down there" and you answered "No, sir." Was that question put and that answer given? A Yes.

Q Then were you asked this, "Q Did any one tell you what you were going to be asked by Mr. Murphy or any one else in the

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District Attorney's office? A No, sir." Was that question put and that answer given by you? A Yes, sir.

Q Was this question put to you, "Q Did any one, Mr. Murphy or the officers or any person in the world, tell you what to say on the 21st of February? A No, sir." Was that question put and the answer given? A Yes.

BY THE COURT:

Q And you say that now, do you, that nothing was told you by any one in the District Attorney's office or any one on the Police Force what you were to testify to? A I hadn't had a chance to talk.

Q Did you not say so a few minutes ago in answer to the prosecutor, that no one from the District Attorney's office nor any one from the Police Department, told you what you were to testify to before me? A No, sir, nobody told me.

BY MR. WASSERVOGEL:

Q Were you asked this question, "Q When you came down here to the District Attorney's office, were you or were you not willing to tell the truth, that is, on February 21st", and your answer was "I was willing." Was that question put and the answer given? A Yes, it was put to me, but allow me to answer it and I will answer it -- you don't give me a chance.

Q Was this question put to you "Q Did any person suggest in any way what you should say to Mr. Murphy" and did you give this answer "No, sir." A Yes, sir.

Q Is that correct? A Yes, sir.

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MR. WYLIE: What do you mean by correct?

MR. WASSERVOGEL: Whether the question was given and the answer made.

MR. WYLIE: I just want that to appear on the record.

BY MR. WASSERVOGEL:

Q Before the trial you had a talk with Johnny Shilitano?

A What do you mean by before the trial?

Q Before the trial, you know when that was, before the trial? A Why, before the trial I was in the House of Detention.

Q Long before the trial? A Yes, sir.

Q You had a talk with Johnny Shilitano about the case? A Yes.

Q Johnny Shilitano and a lawyer met you in the back room of a saloon? A Yes, sir.

Q Where you signed an affidavit? A Yes.

Q Is that correct? A Yes.

Q You had a talk with Johnny Shilitano then? A Yes.

Q And you were asked about this talk upon the trial? A Yes.

Q You were asked this question, "Q What conversation did you have with Johnny Shilitano then" -- you remember the question? A Yes.

Q And you said "He told me not to say anything". Did you give that answer? A Yes, sir.

Q "Q What words did he use, give me the best recollection that you have on that subject, what did he say? A He said 'In case they call you, why don't say nothing.'" Was that question put and that answer given? A Yes, sir.

Q Did anybody tell you to say these things in court before

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Judge Malone? A Say what?

Q What I have just read to you now? A Nobody told me, but they forced me to say --

Q Who forced you to say that? A Detective DeMartini.

Q Did Detective DeMartini ever use those words to you? A He never did use the words.

Q What do you mean by "force you"? A If I did not say anything in regard to the case he would have me indicted for perjury.

Q You had not committed perjury up to that time, had you?

A I did not know it until here lately what the word perjury meant

Q You knew you had done no wrong up to that time? A I had an idea I would do wrong if I would not do what he said.

Q Will you tell his Honor now what, if anything, DeMartini did to you to cause you to say that Johnny Shilitano said to you "In case they call you why don't say nothing"? A Give me that question.

Q (The question is repeated)? A I don't understand it. The question is too long and I can't understand it.

Q What is there you do not understand about the question?

A It is simply too long.

Q I asked you before -- let us go back a minute -- I asked you before whether this question was put to you, "Q What words did he use" -- that is, referring to Johnny Shilitano -- "give me the best recollection that you have on that subject, what did he say"; and your answer was "He said in case they call you why don't say nothing." Was that question put to you and was that an-

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swer made? A Yes, sir.

Q It was? A Yes, sir.

Q How did DeMartini tell you to say these things in court?

A He did not exactly tell me to say it.

Q Did he tell you in any way at all that this question was going to be put to you in court and that you were to give that answer, yes or no?

MR. WYLIE: Let him answer.

THE WITNESS: I cannot answer any question to you --

THE COURT: You will answer it -- answer it in your own way.

THE WITNESS: Put it to me, put the question to me.

Q (The question is repeated as follows) Q Did he tell you in any way at all that this question was going to be put to you in court and that you were to give that answer, yes or no? A No, sir.

BY MR. WASSERVOGEL:

Q He did not? A No, sir.

Q So you can answer that question "no, sir"? A Was that the last question you asked me?

Q Yes, and you say no, sir -- there is no question about that now? A You asked me a small question, not a big one.

Q That is the question I asked you, Mr. Wylie and I will agree -- did DeMartini tell you to say that you were afraid that the bullets would go your way and that is why you ran into the grocery store? A No, sir.

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BY THE COURT:

Q Did any one tell you to say that? A No, sir.

BY MR. WASSERVOGEL:

Q Did DeMartini tell you to say that you saw John Rizzo in the poolroom? A No, sir.

Q Did any one tell you to say that? A No, sir.

Q Did DeMartini or any one else tell you to say that you saw Oreste Shilitane in the poolroom? A No, sir.

Q Did DeMartini or any one else tell you to say that at the time of the shooting you were about half a foot away from Oreste? A No, sir.

Q Did DeMartini or any one else tell you to say that you should say that Shilitano's face was turned towards Prince Street at the time of the shooting? A No, sir.

Q Did DeMartini or any one else tell you to say that you saw Oreste run into the street and do the shooting? A No, sir.

Q Did DeMartini or any one else tell you to say that you saw Rizzo fall down? A No, sir.

Q Will you please tell us one single thing which you were forced to say upon the trial of this case? A He just simply threw hints at me. Detective DeMartini.

Q What hints were thrown at you? A In regard to the case.

Q Q What hints were thrown at you? A He was actually telling me that I was there and he said if I did not say anything in regard to the case he would have me indicted by you or Mr. Murphy for perjury.

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Q What were you forced to say? A He did not say -- he did not ask me to say anything, but he said as long as it is something to satisfy Mr. Murphy, why it would be o.k. That was what he said.

Q On the trial of this case you said more than something because you covered all the details of the shooting? A Well, I took that out of my own head. I put that up myself.

Q You made that up yourself? A Yes.

Q You just happened to make up the exact facts as they occurred? A I don't know if they are exact or not.

Q You knew the charge against Shilitane was murder, didn't you? A Yes.

Q You know what the punishment for murder is in this State? A Well I don't know.

Q What? A I don't know, I ain't no District Attorney or lawyer, I am just simply a plain working man.

Q You know how murder is punished in this State? A As far as I read.

Q You have heard of the electric chair? A Yes, sir.

Q You know that a person who is convicted of murder in the first degree is punishable by death, you know that? A No, I did not always know it.

Q Did you think at the time you testified that Shilitane would simply get five or six years in prison, as you told us yesterday afternoon? A Yes, that was what I thought.

Q You thought Shilitane was innocent of that crime, as you

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now say? A Well, I did not see him do anything.

Q Why should this man go to jail for five or six years on your testimony if you did not see him do anything? A I did not think five or six years would --

BY MR. WASSERVOGEL:

Q Do him any harm? A Harm him any.

MR. WYLIE: I object to putting the words right in his mouth when he is a xx witness who is very susceptible to pick things up like that.

THE COURT: Proceed. I will give you every latitude.

BY MR. WASSERVOGEL:

Q Your conscience would not have troubled you at all if Judge Malone had simply sentenced this man to five or six years in State Prison? A Not exactly.

Q What then? A My conscience would bother me, but not as much as now.

Q Your conscience did not trouble you at the trial at all?
A No.

Q Did you think at the time you gave your testimony in court that Shilitane would simply get five or six years in jail? A That was what I thought.

Q You said something yesterday afternoon to Mr. Wylie to this effect, that DeMartini had told you that you would be taken out of the House of Detention if you would tell Mr. Murphy about the shooting, did you say that? A Yes, that was what he said.

Q After you made your statement to Mr. Murphy you still re-

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mained in the House of Detention? A Yes.

Q You were not released? A No, sir.

Q It was after that that you testified in court before Judge Malone, is not that so? A Yes, sir.

Q And you were still in the House of Detention at that time? A Yes, sir.

Q You were brought down to this court room or the court room of General Sessions, Part V, from the House of Detention, each day of the trial? A Yes, sir.

Q But you stuck to the story which you told to Mr. Murphy, didn't you? A Yes.

Q In spite of the ~~gx~~ fact that you had not been released from the House of Detention? A Yes.

Q You told Judge Malone and the jurors in that case that the story which you told Mr. Murphy was the truth? A Yes, sir. I remember saying that, but it was not true.

Q In spite of the fact DeMartini did not keep his promise to have you released from the House of Detention? A That is right.

Q Have you talked with Johnny Shilitane since the day you were at the Bar Association to see me? A Yes, I have talked with him.

Q How often? A Five or six times.

Q Did you talk with him on the same day that you met me at the Bar Association? A No, sir.

Q The next day? A No, sir.

Q How long after that? A Well, I don't exactly remember how

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long.

Q On each of those occasions when you met Johnny Shilitano since the day you met me at the Bar Association, you talked about this case? A No, sir.

Q What were you talking about? A Simply hello and that is all, how are you, how are you getting on.

Q Did you talk with Johnny Shilitano about this case at any time after the day you met me at the Bar Association? A No, sir.

Q Not once? A Not after I saw you, no, sir.

Q Who asked you to come down to the Court House to-day?
A Johnny Shilitano. He subpoenaed me.

Q Did you talk with him when he served you with the subpoena? A Just simply told me to report to the said court.

Q Did he say anything about the case at all? A No, sir.

Q When you were at the office of the New York World, did you tell the reporter down there "I was also somewhat frightened when I thought what might happen to me if Oreste went to the chair". Did you say that? A Yes, sir.

Q What did you mean by that? A Because I did not tell the truth the day of the trial.

Q You were frightened at what, who was going to do you harm?
A Oreste Shilitano's friends? A Why somebody, he has lots of friends -- somebody.

RE-DIRECT EXAMINATION BY MR. WYLIE:

Q Why would Oreste's friends do you any harm if he went to the chair? A Because I had sworn falsely.

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Q Did Johnny Shilitano ever tell you not to say anything?

A No, sir, he never told me nothing.

Q Why didn't you testify to that on the trial then? A What?

Q Do you remember you testified on the trial that you met Johnny Shilitano one time and he told you not to say anything about the case, do you remember testifying to that? A Yes, I remember.

Q Was that true? A No, sir, it was not true.

Q Why did you say it? A The day of the trial?

Q Yes? A It came out of my own head. That is all.

Q You just said a few minutes ago that you thought Oreste would only get five or six years? A Yes, sir.

Q You would rather have Oreste Shilitano in jail five or six years than do a stretch yourself as De Martini suggested and as Mr. Wasservogel suggested, of seven or eight or ten years? A Well, I don't like to go to prison for nothing that I did not do, but I did not think he would be sent to the electric chair, but now I realize I have sworn false and I don't like to see any man lose their life on account of me.

Q Did you talk with Mr. Murphy about what you were going to say on the trial, after you told him that you would testify that Oreste did the shooting? A No, I simply made the statement.

Q Made a statement to him? A That is all.

Q Did you make a direct statement to him right off without any interruption, or did he talk to you while you were making it?

A He was asking me questions.

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Q Did you talk to Chefoo in the House of Detention about the case at all? A No, sir.

Q Did he tell you what he was going to testify to? A No.

Q Or Merelli? A No, sir.

Q Had you read the papers about the case? A What do you mean before he was arrested?

Q Yes? A Yes, sir.

Q Just after the shooting? A Yes, sir.

Q Why did you say that you ran into a grocery store to escape the bullets, on the trial, if no one told you to say that? A I know that street so well, that there was a grocery store where it happened, and I thought by my saying that it would clear me.

Q How did you know where it happened if you did not see it?

A Reading the newspapers.

Q Did you go around that neighborhood at all just after the shooting? A What do you mean, long after?

Q No, just after the shooting, did you go in Mulberry street?

A No.

Q Or within a week or so afterwards? A I went the next day.

Q Did you talk about the shooting when you were in the street and look around? A No, not to anybody, I just heard.

Q You just heard? A I just heard people around.

Q Were you curious enough to see where these bodies fell, did you go over and look at the places? A No, sir, I did not have a habit of going in the middle of the block. The only place I used to stand was on the corner.

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Q But you knew the block well? A Yes, sir, I was born and brought up in that block.

Q Were you really afraid of DeMartini? A I was.

Q Did you really think they were going to send you away if you did not say what they wanted? A I really thought so, yes.

Q Do you think that they would have done it if you had not said it? A What?

Q Do you think they would have done it if you had not said what they wanted you to? A I don't understand you.

Q Suppose you had not said what they wanted, do you believe they would have sent you away? A I don't know; maybe they would and maybe they wouldn't have sent me away. The way they talked, they said that they would send me.

Q Who do you mean by they? A DeMartini, he is the only man I mean.

Q Fogarty you said yesterday was present when DeMartini was speaking to you? A Yes, sir, but he had very little to say.

Q He heard what DeMartini said? A Yes, sir, he heard it.

Q You went with Chefoo down to the office of the New York World? A Yes, sir.

Q Why did you do that? A What is that?

Q Why did you take him down there? A I took him down because he told me that he was willing to make a statement.

Q Did he tell you what sort of a statement? A No, he did not tell me.

Q Did he tell you that he was forced to say what he did say

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on the trial? A No, sir, he did not tell me that.

BY THE COURT:

Q Did you tell him what statement you were going to make?

A No.

Q You went down together? A I met --

Q Did you go down together with Chefeo? A Yes, sir.

Q Did you go alone, you two go alone? A Yes.

Q Down to the World office? A Johnny Shilitano was there.

Q He was with you, was he? A Yes.

BY MR. WYLIE:

Q You wanted to help Oreste? A Yes, sir.

Q And you want to help him now? A Yes, sir.

Q Do you realize you have done wrong in testifying as you did on the trial? A Yes, sir.

Q And you want to make amends to Oreste for that, and you want to help Oreste because you have done wrong? A Yes, sir.

Q Are you sure now that Chefeo did not say that he was forced to testify on the trial? A I did not say that he told me or anything, I really don't know if he was forced or not.

Q He did not tell you that he was forced? A No, he did not tell me.

Q When Mr. Wasservogel asked you this question at the Bar Association, and you answered it, you made a mistake, didn't you, in talking about Chefeo -- you were asked the question "How did you come to bring him down to the World office? A I brought him down of my own free will. Q Why, how did you come to do that?

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A Being that I was a witness in the case. Q Just because he was a witness? A And he told me that he was forced to say what he did say and I says as soon as he said that "Come on down with us" -- do you remember his asking you those questions? A Yes, sir.

Q Do you remember answering that way? A Yes, sir, I remember.

Q Which is right, did he really tell you that he had been forced to say what he did? A Not exactly. I did not mean to tell Mr. Wasservogel exactly forced but he told me Detective DeMartini would have him sent away if he did not say anything.

Q He did say that? A Yes, sir, that was what he told me and that was all he ever did tell me.

Q Did he tell you that for the first time that night? A No, not that night, before.

Q He told you that before? A Yes.

Q Whereabouts before? A Well, some time after we came out of the House of Detention.

Q Did you tell him about yourself? A No, it was not necessary.

Q Didn't you say to him, "Why, DeMartini told me he would send me away too"? A Yes, I told him that but I did not think it was necessary for me to tell you that.

BY THE COURT:

Q You did not want to give him your confidence absolutely-- perhaps you do not understand that --

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BY MR. WYLIE:

Q Do you know Chefoo well? A Yes, sir.

Q He is a good friend of yours? A Yes, sir.

Q Now I am going to ask you for the last time, you do not know anything about this shooting or you do? A No, I really don't know nothing.

Q You did not see anything of it at all? A No.

Q That is the truth, is it? A Positively.

RE-CROSS EXAMINATION BY MR. WASSERVOGEL:

Q Did not DeMartini say to you "If you don't tell the truth you will be guilty of perjury"? A That was what he told me, yes.

Q Did ~~xx~~ he say that? A Yes.

Q Now when did you first meet Chefoo after the trial?

A After the trial, why, I used to meet him every day.

Q When for the first time did you talk with Chefoo about the testimony which you both had given on the trial? A I don't know what you said.

Q (The question is repeated)? A We never had much talk about that.

Q You just told Mr. Wylie there was one occasion when you did talk about the testimony which had been given on the trial?

A Just simply passing, while walking, saying that -- I said this and he said that.

Q I want to know, when was it he said this and you said that? A I don't remember.

Q About when was it? A I can't tell you.

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Q Give me your best judgment on that, your best recollection? A A couple of months after.

Q A couple of months after the trial? A Yes.

Q Did you have an appointment with Chefoo at that time?

A No, he used to come to my home every night.

Q You saw him every night after you were released from the House of Detention? A Yes, he used to come up to my home.

Q Every night? A Not exactly every night, two or three times a week.

Q Did you always talk about the case? A No, sir.

Q When was it you first talked to him about the case?

A When was it?

Q When was it you first talked to him about the testimony which had been given on the trial? A I really -- a couple of months after the trial.

Q What was said -- what did you say and what did he say?

A I don't remember.

Q You don't remember? A I really don't remember.

Q What is your best recollection about that? A I don't remember, I can't give no answer.

BY MR. WYLIE:

Q Is there anything else you want to say to us while you are here? A What do you mean, anything else?

Q Is there anything about the case you want to tell us at all that you can think of now? A Well, the only thing I wish to say is that all I xx have said upon the stand was not true, and I

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was forced to say what I did say.

BY MR. WASSERVOGEL:

Q Can you tell us, after having been on the stand for over an hour, a single thing that you were forced to say upon that trial, one single thing? A I was threatened for perjury, that was what I mean by forced.

Q You had not committed perjury, you knew that? A You are telling me now that I did not know it then. Why didn't you tell me?

Q You know what the word perjury means? A After you have told me.

Q You knew what perjury meant at the time? A No, I did not know at the time.

Q You did not know what ~~sk~~ it meant? A No.

Q Was it something to eat, is that what you thought -- what did you understand the word perjury to mean? A You told me what the word perjury meant.

Q I want to know from you now what you understood that word to mean before the trial? A I did not know what the word was.

Q Had you ever heard the word before? A Why, not very much.

Q Had you ever heard that word before? A I do very little reading.

Q Had you ever heard that word before, cannot you answer that? A About the word perjury?

Q Had you ever heard that word before? A I am hearing it now and I heard it before in your office.

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Q Did you know that perjury was a crime before the trial?

A No, I did not know.

Q You knew you had not sworn to anything which was false before that time? A I did not sign.

Q What were you afraid of? A Well, I was afraid at that time. I was afraid at that time.

Q Can you tell us at this time a single thing that you were forced to say upon the trial of this case? A I was not forced but I was threatened.

BY MR. WYLIE:

Q Did they ask you to tell that you had seen the shooting in general? A What is that?

(Question is withdrawn).

Q Did they tell you to say that you had seen the shooting? A No, they did not tell me.

Q What did they tell you to tell Mr. Murphy, to satisfy Mr. Murphy? A They told me "Anything you tell him in regard to the shooting will satisfy Mr. Murphy", and they told me to satisfy him or otherwise you will be indicted for perjury. That was what they had me scared of.

Q Did they make you understand to satisfy him you had to tell him that you did see the shooting? A They did not exactly tell me to say that, but I thought if I would say that that would satisfy Mr. Murphy.

Q You thought that was the only thing that would satisfy him? A Yes, sir.

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G E N N A R O S E L L I T T O, called as a witness, being duly sworn and examined, testified as follows:

(The witness testified through the official interpreter Mr. DeVille).

(Residence 228 Mott Street).

DIRECT EXAMINATION BY MR. WYLIE:

Q You understand some English? A No.

Q Do you understand any at all? A No.

Q You speak a little English? A No.

Q Where did you live on May 3rd, 1913? A 231 Mulberry street.

Q Did you testify on the trial of the State against Oreste Shilitano in March 1914? A Yes.

Q Were you a witness for the State? A Yes.

Q Did you make an affidavit in the office of the New York World on March 8th, 1915? A Yes.

Q I show you a paper and a signature and I ask you whether you signed it? A That is not my signature. It is another name.

Q That is right -- I have got the wrong one -- (witness is shown another paper). A Yes.

Q Did you swear to it? A Yes.

Q Did you make an affidavit in the office of Martin W. Littleton, 149 Broadway, in July 1915? A Yes.

Q I show you a paper and signature and ask you whether you signed it? A Yes.

Q Where were you on the night of May 3rd, 1913? A I was in-

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side the poolroom, I believe the number is 235 Mulberry street.

Q Did you see Rizzo that night? A Yes.

Q How long have you known him? A About six years, since I have been in New York.

Q Did you also see Michael Shilitano, Oreste Shilitano's father? A Yes.

Q In the poolroom? A Yes.

Q Was Oreste there? A I did not see him.

Q Who left the poolroom first of the people mentioned, Michael Shilitano, Rizzo or yourself? A Rizzo.

Q When did you go out? A Well, I must have been about twenty steps behind Rizzo, half a minute or so later.

Q Had you seen Oreste Shilitano that night? A No.

Q When had you seen him before that? A I believe, if I am not mistaken, I saw him that same day between 3 and 4 o'clock in the afternoon.

Q Whereabouts? A On Mulberry street.

Q Describe what you saw after you came out of the door of the poolroom? A Rizzo went out and I was talking with a friend of mine. While I was talking to my friend I heard the first revolver shot. When I turned around I saw Rizzo lying on the ground. Then I saw officers crossing the street from the opposite sidewalk, and another shot was fired and killed the officer and then another officer came from Prince Street and the other officer was also shot. Then I saw an individual run into 241 Mulberry Street.

Q Did you see the man do the shooting? A I saw some one

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fire but I did not recognize him.

Q Do you know Oreste Shilitano well? A Sure I do.

Q Was the man who did this shooting Oreste Shilitano?

A No, sir, I did not recognize Oreste as the man who did the shooting. The man who did the shooting was a man of about forty years of age.

Q You are positive it was not Oreste? A Yes, sir.

Q Had you ever seen the man who did the shooting, before, or have you seen him since? A No, sir.

Q How was the man dressed? A Dark clothes, black clothes.

Q What sort of a hat? A A round hat.

Q Did you see Oreste Shilitano that night or the next day?

A No.

Q What happened to you after the shooting? A A police officer placed me under arrest.

Q Where did he take you? A To the station house.

Q Anywhere else? A Then to Headquarters.

Q Who did you see at Headquarters? A I really don't know them, to tell you the truth. I think I spoke to some one who was a Captain or above a Captain.

Q How many people were there? A When I arrived there there were two or three of them in the room.

Q What did they ask you? A They asked me what I had seen.

Q Did you tell them? A Yes.

Q What else did they ask you? A Nothing.

Q Didn't they ask you who did the shooting? A Yes, sir, all

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night long they kept on asking me.

Q What did you tell them? A I kept on repeating to them that I did not recognize the person who did the shooting.

Q Did they keep you locked up that night? A Yes, all night long.

Q Where were you taken the next day? A To the Coroner's Court right over here.

Q What happened there? A I there found some one connected with the District Attorney's office who put the same questions to me as were put to me the night before.

Q What were your answers to those questions? A The same answers that I had given the night before.

Q Then where were you taken? A To St. Vincent's Hospital.

Q Why? A To make me identify Rizzo -- to cause me to identify Rizzo.

Q Did you? A Yes, sir.

Q Then where were you taken? A To the House of Detention.

Q For how long? A Eleven days. I came out under \$100 bail.

Q Where did you go then? A You mean after I came out of the House of Detention?

Q Yes? A Some two ^{months} ~~weeks~~ later I went to Tarrytown.

Q Did you sign a statement for Assistant District Attorney Murphy? A When?

Q The middle of May 1913? A I believe I did.

Q I read you Defendant's Exhibit D, and I ask you whether you signed that paper

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"Statement taken by Deputy Assistant District Attorney Murphy. Officer Capano, Central Office, 13th Precinct, acting as Interpreter, May 16, 1913. Genero Selitto, states as follows: I reside at 231 Mulberry Street, 1st floor, front, with father and mother. I knew the deceased, John Ritze, well and I know the defendants Arreata and Michael Shilitano by sight. On the evening of Saturday, May 3rd, about 11 o'clock, I was in the poolroom at 235 Mulberry Street. I was sitting at a table drinking wine with Arturo Caferrie, a butcher, of 231 Mulberry Street, Campane Savirio, of 240 Mulberry Street, and a man named Domenico, but whose last name and address are unknown to me. The deceased, John Ritze, came into the poolroom and had a glass of wine with us. While Ritze was at the table no one came over to him. When he went out he simply said, 'I am going out and I will be right back.' At that time he had no coat or vest on, but was in his shirt sleeve. I did not notice whether he was eating a sandwich at the time he went out."

"I did not notice whether he was eating a sandwich at the time he went out. I did not see Paper Box Kid in the poolroom, but I did see his father. I did not see his father talk with Ritze. When Ritze went out of the poolroom I did not notice in which direction he went, but in about two or three minutes seven or eight of us started to go out and as we reached outside I saw some manshoot Ritze, but I did not see this man's face. At the time Ritze was shot he was about

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10 feet away from No. 241, about right in front of the bakery almost. Arture had gone out of the poolroom before Ritze and I went out. Somenico did not go out before Ritze; he stayed in the poolroom. He did not even go out with me. Campanio did not go out with me; he was in the poolroom and was drunk. When Ritze was shot, he fell onto the sidewalk. After I saw this man shoot at the police I noticed that he had a sort of a lightish suit with a soft black hat. He was a shorter and thinner man than I am. I noticed that after he shot Ritze a policeman came from the other side of the street in my direction and he shot at him, and then another policeman came along and also shot at him and then ran into the house at No241. The first policeman he shot at I know by sight but not by name. When the second shot was fired Ritze was on the sidewalk. This man who shot Ritze moved a little west from where he shot him towards the gutter. I saw the officer run with the stick in his hand and the officer was right ~~lx~~ near Arreste at the time he shot him. I saw the officer raise his stick, but I don't know whether he came down with it or not upon the man, and at that moment he was shot. Arreste then turned around and as he did so he saw the other officer coming along and he shot at him. This second officer was about five feet away from him at the time and he had come from the direction of Prince Street. The first officer had come from the other side of the street.

I saw the older Shilitane in the poolroom, but I did

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not see him go out, nor did I see him out upon the street. At the time of the shooting I did not see any one whom I knew. I know Rocce Lorito. I did not see him on the stoop at No. 241 because from where I was standing there was no light. I was in between 235 and 237 when the first shot was fired. I know Jerry Carbonate from seeing him around the street, but I did not see him around the street at that time. If this man who did the shooting was brought before me I would recognize him. I did not see the face of this man who did the shooting, but according to the picture of Paper Box Kid, which is now shown me, it is that fellow that done it. If he was dressed with the same clothes he then wore, I would know him, and according to the description it is that Kid.

I work for Salvatore Lambarrare, at 263 Washington Street in the business of handling bananas. I know Nellie Decarlo but I did not see her at the window because I was not watching the window" --

Q Did you sign that? A I don't believe I signed any statement like that but I made the declaration almost similar but not exactly like this, before the Grand Jury.

THE COURT: That purports to be a signed statement?

MR. WYLIE: I have never seen the defendant's exhibit. It is printed in the record and the next question is "Q Is that your signature (showing witness' lead pencil affidavit on yellow paper)" and the witness answered "Yes." May it appear on the record that the statement or signed paper just read to the witness

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is Defendant's Exhibit D in the case on appeal.

THE COURT: Yes.

BY MR. WYLIE:

Q You testified before the Grand Jury? A Yes.

The hearing is now adjourned until to-morrow
afternoon, September 23rd, 1915, at 2 P.M.

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New York, September 23rd, 1915,

Hearing resumed

G E N N A R O S E L L I T T O resumes the stand:

DIRECT EXAMINATION CONTINUED BY MR. WYLIE:

Q Do you remember the day of the month you testified before the Grand Jury? A I don't remember whether it was the 15th or 16th of May, either one of the two, 1913.

MR. WYLIE: May it appear on the record that the indictment was filed on the 23rd of May.

THE COURT: 1913.

MR. WYLIE: Yes.

MR. WASSERVOGEL: Whatever the date is.

BY MR. WYLIE:

Q Did you see Johnny Shilitano and a lawyer soon after you testified before the Grand Jury? A After that, yes, sir.

Q Soon after? A I couldn't tell you whether it was a short while after or a long time after.

MR. WYLIE: I am going to read to the witness Defendant's Exhibit E, which was a statement or affidavit that he signed in the presence of Mr. Aranow who was counsel for the defendant. In making the case on appeal, there was found to be, after the case on appeal was made, an error in the record which has been corrected by stipulation between the District Attorney's office and the attorney for the defendant, and it has been corrected in the Court of Appeals, but I would like that correction to appear.

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THE COURT: Yes.

BY MR. WYLIE:

Q I read you Defendant's Exhibit E, and I ask you if that was the affidavit you signed for Mr. Aranow? (The paper is read to the witness and interpreted by the defendant).

THE WITNESS: This is wrong -- "gave me a slap in the face -- it should be "he slapped me on the hat, not on the face."

(The interpreter continues reading the paper to the witness).

THE WITNESS: Yes.

(The interpreter reads from the printed record on appeal page 137, as follows:)

"I reside at No. 231 Mulberry Street, New York City. That on the 3rd day of May, 1913, at about ten forty-five -- or eleven forty-five, I was outside of the poolroom located at 235 Mulberry Street, having entered there about ten o'clock that evening. About a half hour later I saw Mr. Shilitano come into the poolroom. I did not know him at that time. I did not see Harry Shields or Oreste Shilitano in the poolroom that night. About a half hour more Mr. Shilitano went in. I saw Mr. Rizzo come in. Rizzo stopped him, ^{me} slapped ^{me} him twice on the head and I did the same. He remained in the poolroom about five minutes and went out. About a minute after I followed and stood in front of 235 Mulberry Street. I was alone at that time. I saw Rizzo walk towards

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Prince Street and in front of the bakery at 241 Mulberry Street a person shot Rizzo, and I saw Rizzo fall to the ground. Then I saw a policeman come across the street with a stick in his hand and the same party who shot Rizzo shot the policeman. I did not see the policeman strike the man. Rizzo was shot in the middle of the sidewalk in front of 241 Mulberry Street and the first policeman on the curb in front of the entrance of 241 Mulberry Street; another policeman came from Prince Street and the same person shot this policeman about ten feet from the curb at 241 Mulberry Street. After the second policeman was shot the person who did the shooting ran up to the stoop of 241 and I haven't seen him since. I know Oreste Shilitano for two years. The man who shot these people was not Oreste Shilitano and I am sure of that. I made the same written statement to the police and the District Attorney -- if I saw the man in the same suit or hat I would recognize him. The face was not that of Oreste Shilitano. I know Oreste Shilitano and I know it wasn't he who did the shooting and I told the District Attorney so. I make this affidavit voluntarily because I want to see justice done. I am distantly related to Rizzo. Sworn to before me this eighth day of June, 1913. Frank Aranow, Commissioner of Deeds, New York City. Signed, Sellitto Genaro."

BY MR. WYLIE:

Q What officers came up to Tarrytown after you? A Gambar-

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della and Degilio.

Q Referring back to that affidavit, will you give us the conversation you had with Mr. Aranow or Johnny Shilitano, or whoever you had it with, before you signed that affidavit? A Well, I repeated to him exactly what I stated in the affidavit and also what I told the District Attorney and the Grand Jury.

Q Where did Degilio and Gambardella take you after they brought you from Tarrytown? A Elizabeth Street Police Station.

Q Then where? A Then they brought me out to a saloon cafe and gave me something to eat and drink.

Q What did you have to drink? A Claret.

Q Did you talk with them about the case? A Not that evening

Q Then where did they take you? A To my mother's home.

Q And from there where? A I slept there that night. In the morning they took me to the station house, Elizabeth Street station house.

Q And then where did they take you? A To the Tombs.

Q What for? A They brought me there for the purpose of identifying the person who had done the shooting.

Q Did you identify the person who did the shooting? A No.

Q Did they have a line-up there? A Yes, sir, twelve men.

Q Was Oreste Shilitano in the line-up? A Yes, sir.

Q Did you tell the officers that he was the man that had done the shooting? A No, sir.

Q Then where did they take you? A To the District Attorney's office.

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Q Who did you see there? A Mr. Wasservogel.

Q What did he say to you? A He said to me "Why don't you tell the truth."

Q What did you say? A I said "This is the truth."

Q Didn't he ask you why you did not put your hand on Shilitano? A Yes, sir.

Q Didn't he ask you whether you were afraid of something?
A Yes, sir.

Q What were your answers to those two questions? A I said that I was afraid of no one.

Q Did you tell him Shilitano did not do the shooting? A Yes

Q Then where did they take you? A Before the Judge.

Q What did the Judge say to you? A \$2,000. bail.

Q Where did you go then? A House of Detention.

Q How long did you stay there before you came out? A One hundred and twenty-six days.

Q How long were you there before they brought you out for a day or anywhere? A Eleven days.

Q Where did they take you then? A I misunderstood your question. I want to say that the first time I was taken to the House of Detention, I remained there eleven days but the second time I was taken there I was not brought out for four months -- until four months later. Over ninety days, after I had been taken into the House of Detention the second time detectives came and took me out.

Q Where did they take you? A The first time they brought me

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to the District Attorney's office.

Q Who did you see there? A I don't remember which one I saw, whether it was Mr. Murphy or another Assistant.

Q Who brought you to him? A Degilio and DeMartini.

Q What did the District Attorney say to you? A He asked me what I knew.

Q Did you tell him? A I told him what I knew, that is exactly what I told him.

Q What did you tell him? A I told him that what I had stated before was exactly what I knew.

Q Did he ask you "Why don't you tell us Oreste did the shooting?" A Yes, sir.

Q Did he say "I will put you under \$5,000. bail if you don't tell me the truth?" A Yes, sir.

Q What did you say? A "It is very little concern to me, you can put me under \$25,000. if you wish."

Q Then where did they take you? A They took me to have something to eat and drink, and they returned me to the House of Detention.

Q Did Degilio and DeMartini come to see you often? A After that, yes, they usually called almost every day.

Q Did they ever take you out? A Yes, sir, after several interviews in the House of Detention they told me that if I stated as to the facts the way they suggested them to me, that they would take me out and about the town.

Q Did you state the facts to them as they suggested to you?

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A Well, at the beginning I fought and I did not reply and I did not give way to their suggestion, but later on they took me out and got me intoxicated and I made statements the way they liked them.

Q What statements did they ask you to make? A They suggested to me, they told me to say that Oreste Shilitano had done the shooting and they said "We will help you and our boss will help you."

Q Who did they tell you to tell that to? A They said to me that that I should make statement first to them and then to the District Attorney when they would bring me before the District Attorney.

Q Did you drink with them often when you were out of the House of Detention? A Yes, sir, I did.

Q Were you drunk often? A Yes, sir.

Q Did you ever drink in the House of Detention? A I believe only on two occasions.

Q Were you drunk there? A No, when I drank in the House of Detention I did not drink enough to cause me to be intoxicated.

Q Was Degilio or Gambardella or DeMartini with you each time you drank? A No, only Degilio and DeMartini.

Q Did you sign a statement for the detectives Degilio, Gambardella or DeMartini? A Not for them, I did not.

Q Did you ever play cards with those detectives outside of the House of Detention? A Yes, sir.

Q Where? A I don't remember the number, but it is in a

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saloon on Broome Street between Mulberry and Mott.

Q What other saloons or drinking places did you go to with those detectives? A With Degilio I went to 263 Mott street.

Q What did they say they would do with you if you did not make statements according to the suggestions they made to you?

A That they would send me away for twenty years.

Q Did they make that sort of threat to you often? A Yes, sir every time they came with suggestions to state what they were suggesting, they would add a threat to it.

Q How long did that state of affairs keep up? A About two months.

Q What did you do then? A Well, I made the statement they desired me to.

Q To whom? A Murphy.

Q And signed something? A Yes, sir.

Q That was the statement that was read to you yesterday?

A I don't think that is the one; I don't remember.

Q How did they treat you after you signed the statement or made this statement, rather? A They treated me very well. They brought me up to the house, to the premises where my wife lived and they took me out for a walk and they treated me very well indeed.

Q Did they let your wife come to see you in the House of Detention? A Yes, sir.

Q Was anything said to you by one of those detectives on the day of the trial? A Yes, sir.

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Q What did he say? A "If you don't say what we told you to say and particularly about our boss, we will send you away for twenty years."

Q What did he mean by "particularly about our boss"? A He meant by that what he had explained to me on previous occasions that we ~~xxx~~ had to satisfy his boss, his boss wanted a statement to the effect that Oresto Shilitano had committed that murder and we had to satisfy him and I should make a declaration in that trend, and that the boss would help me out.

Q Tell us some of the other things these detectives use to suggest to you? A Well, the biggest conversation, the longest conversation we had was on the morning of the trial, the very morning I had to appear before the Judge and testify. They came and took me out and brought me to a bar, and DeMartini was talking so much to me that he would not even allow me time to eat anything or drink.

Q Where was this bar? A Right in front here.

Q After the trial, when did you next see Johnny Shilitano?

A On Mulberry street.

Q When? A I don't remember the date.

Q Was it long after the trial? A Fifteen or twenty days after.

Q After Oresto had been sentenced to death? A Yes, sir.

Q Did you speak to Johnny first or did he speak to you? A I addressed Johnny.

Q What did you say to him? A I said "Johnny, it is not of

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my own volition that I testified. I was compelled to do so by the police.

Q What did he say? A He told me "go to court."

Q Did you go? A No.

Q Why not? A I did not know who to address myself to and what could I do.

Q When did you next see Johnny Shilitano? A When I went up to the newspaper office.

Q Did he have any one with him? A No.

Q What did he say to you? A He said to me "If you want to make a statement in the way you spoke to me a short time ago, you had better go to the newspaper office."

Q Did you go? A Yes.

Q Alone? A No, both of us went together.

Q Any one else? A No.

Q Who did you see when you got there? A I saw a young man who was taking down dictation and writing and I saw a tall man whom I understand was the boss of the paper.

Q Did they ask you any questions? A Yes.

Q And afterwards you signed the affidavit they gave you? A Yes

Q Who interpreted for you? A I don't know -- it was an Italian but I don't know who he is.

Q Who use to interpret for you when you came ^{from} the House of Detention to see Mr. Wasservogel or Mr. Murphy? A When Degilio was there he would act as interpreter and when DeMartini was there he would do so.

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Q They were the only ones who acted as interpreters at these interviews? A That was all.

Q Are you working now? A Yes.

Q Where? A In a paper stock place.

Q Do you know the name of it? A Guiseppe Piscopala.

Q Where is that? A West Broadway and Spring Street.

Q Between the time of the trial and the time you made the affidavit in the World office, how many times did you see Johnny Shilitano? A Twice.

Q The two interviews you have described? A Yes.

Q Who asked you to come to the office of Martin W. Littleton, 149 Broadway, to make an affidavit? A John Shilitano.

Q Did you make an affidavit in the office of Martin W. Littleton? A Yes, sir.

Q Did you have an interpreter there? A Yes.

Q What questions were asked you there? A The questions asked me were to the effect as to whether the statement I had made and the affidavit I had signed in the World office was the truth.

Q Did they ask you whether the affidavit that you afterwards signed there was the same as the affidavit you signed in the World office? A Yes, sir.

Q After you made the affidavit in the office of the World, who told you to go to the Bar Association to see Mr. Wasservogel?
A Johnny.

Q Was any one with him when he told you? A No, sir.

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Q What did he say to you? A He said to me "Go to 44th street where the public prosecutor wants to see you."

Q Did you ask him what for? A I said "What does he want with me" and he said to me "You go over there and he will talk to you and you will find out."

Q How long did Mr. Wasservogel talk to you that day? A Well I cannot tell exactly, two hours or two hours and a half, maybe more.

Q Who were present? A Mr. Wasservogel and some one taking down what was being said and Mr. Fontana.

Q Who is Mr. Fontana? A He is an interpreter.

Q Did you tell Mr. Wasservogel at the Bar Association that Oreste Shilitano did the shooting or that it was done by some one else? A No, sir, I told him that it was not Oreste Shilitano that did it.

Q Do you remember Mr. Wasservogel at the Bar Association asking you these questions and you making these replies, "How far away were you from Oreste Shilitano at the time of the shooting? A I did not see Oreste Shilitano at all that night." A Yes.

Q "Q Do you realize that you swore differently in court" and you answered "What I swore to before the Grand Jury was the truth; what I swore to afterwards the detectives made me do that"? A Yes, sir.

Q "Q Which detectives? A Degilio and DeMartini"? A Yes.

Q Do you remember these questions? A Yes.

Q And were your answers to these questions the truth? A Yes.

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Q Did Gambardella ever make you swear to anything? A No.

Q Did Fogarty? A No.

Q Did Bonano? A No, sir.

Q What did Frederick Apfel say to you? A Who is that?

Q A-p-f-e-l? A Oh, he said to me that if I did not testify to what he called truth, to this effect, that I was there at the time, that he saw me there and that he knows I saw the man who did the shooting and that I knew the man who did the shooting, he would go to court and he would cause me to be sent away for seven years.

Q Who was Frederick Apfel? A His name is Fred Apples-- a police officer.

Q Whereabouts? A In the House of Detention.

Q When did he say this to you? A About fifteen or twenty days before DeMartini and Degilio took me in hand.

Q Did you just before the trial tell Mr. Wasservogel or any one that the reason you did not pick Oreste out in the line-up was because you were afraid to? A No.

Q Do you remember this statement having been made by you before Mr. Wasservogel in the Bar Association, "Mr. Wasservogel said to me how is it you did not pick out Oreste Shilitano and I said I did not recognize him"? A Yes.

Q Do you remember this question and answer, "Do you remember after that you said that you did not pick him out because you were afraid to pick him out" and you answered "Well, I did this after I had been seventy or ninety days in the House of Detention"? A Yes.

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And I want to add that I think I said also that I did this after I had been told to do so, by the officers.

Q Do you remember this question and answer "That was true, wasn't it, you were afraid to pick him out? A Yes, I said that, after the officers had told me to say that to you"? A Yes, sir.

Q Did Degilio and DeMartini tell you that they would help you if you told the story they asked you to? A Yes, sir.

Q They did not really tell you to tell a story, did they, they just asked you to say that the man who did the shooting was Oresto, and then tell what you had seen? A Yes, sir, they asked me to do that, but I did not recognize the person that did the shooting.

Q Did Johnny Shilitano ever come to you before the trial and tell you not to point out Oresto as the man who did the shooting? A No, sir.

MR. WYLIE: I would like to read in two or three pages and get the interpreter to read it afterwards.

BY MR. WYLIE:

Q Do you remember these questions being put to you by Mr. Wasservogel at the bar Association and you giving these answers,

"Q You know if a man lies in court he can be sent to prison?

A Yes. I know he can be sent to prison, but the police told me they were going to help me and that the District Attorney would also help me. Q Do you expect the police to help you now after

you admit you lied in court? A I tell the truth now. Q I am talking about what you said in court, you admit you lied in court,

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don't you? A Yes, because the police told me to say it. Q You think the police will help you now? A What do I care now. I don't expect any help from them. I don't want any help from anybody.

Q You know it is a serious matter to be in court when you are under oath, don't you? A No, I don't. Q Well, I am telling you so now? A Now, because you tell me, I know it. Q Didn't you say before that the policemen told you that unless you told the truth or rather that Oreste Shilitano did the shooting, they would send you away for twenty years for perjury? A Yes I did say that.

Q Well then you knew what perjury was at that time, didn't you? A No, I did not. Q What were you afraid of then if you did not know? A Well, because one would say ten and the other fellow would say twenty years in prison. I was afraid. Q Afraid of what? A They would send me to jail. Q What for -- this is a very serious matter, you need not laugh, it is not a joke -- what were they going to send you to jail for? A I don't know. Q What were you afraid of then? A To go to jail. Q You had not done anything wrong? A Well, still I was afraid -- one that was never in jail before is afraid to go to jail. Q You are not afraid of going to jail now, are you? A Why should I go to jail? Q You are not afraid of going to jail now for having sworn falsely before Judge Malone? A I do not see why I should go to jail when the police made me say that. Q How could they make you say that, they did not have a club over you when you testified, did they? A Well, they told me to say so and I said it, and that is all I know. Q Well, if they had told you to jump out of ~~the~~ the

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window, would you have done that too? A Well, one that is about to jump out of the window knows he is going to die, but if a man don't know about certain things in reference to courts, why he is afraid. Q So simply because they told you to say that Oreste did the shooting, you said it? Eh? A Yes, sir." -- Do you remember those questions and answers? A Yes, sir.

Q Has any influence, threats or force been used by any one on you to make you now say you lied on the trial when you stated that you saw Oreste do the shooting? A No, sir.

Q You are absolutely positive that it was not Oreste who did this shooting? A Yes, sir.

CROSS-EXAMINATION BY MR. WASSERVOGEL:

Q Where are you living now? A 228 Mott Street.

Q You live there with your wife, do you? A Yes.

Q Who owns that house? A An American.

Q Do you know his name? A No.

Q How long have you known Oreste Shilitano? A Two or three years before that.

Q That is about five years now, is that what you mean?

A Well, you cannot count these two years as my being acquainted with him -- he has been all the time locked up. I don't see him at all.

Q How did you first become acquainted with him? A Well, through Rizzo.

Q And when you spoke to Oreste, did you speak to him in

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English or Italian? A Always Italian.

Q Oreste Shilitano speaks English well, does he not? A Well I don't know whether he speaks English well. I don't know how to speak English and always spoke to him in Italian. I know that he knows Italian.

Q Do you know Johnny Verno? A I know him by sight.

Q Did you know him before the trial of this case? A By sight, yes.

Q Had you ever spoken to him before the trial of this case?

A No.

Q Did you speak with Johnny Verno while you were both in the House of Detention? A I certainly did.

Q Did you talk with him about this case? A No, sir.

Q Not a word about the case? A No, sir.

Q Have you talked with Johnny Verno since the trial? A I certainly did.

Q Have you talked with him about this case? A No, sir.

Q Did you talk with Johnny Verno before you went to the office of the World? A No, sir.

Q Did you see him down at the office of the World? A No.

Q Will you name now the various police officers with whom you talked about this case at any time? A Fred -- only Fred Apfel that is the only policeman that I know in connection with this case.

Q Or detectives? A I mentioned the detectives already.

Q Do so again? A Degilio and DeMartini.

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Q Any one else? A No.

Q Gambardella? A I never saw Gambardella.

Q So that there were only three police officers who spoke to you about this case, Apfel, DeMartini and Degilio, is that correct? A Yes, sir.

Q Now, which of these three men do you say forced you to say something against your will? A Degilio and DeMartini.

Q Did Apfel force you to say anything against your will?
A The only thing Apples said to me "If you don't tell the truth about this case you will get seven years in jail."

Q That was all that Apfel said? A Yes.

Q Will you tell us a single thing that Officer DeMartini told you or forced you rather to say about this case? A He told me that repeatedly, he said "Say that it was him that done the shooting and my boss will help you".

Q Did he say anything else to you about what you should testify to in court upon the trial of this case? A He said to me "Say it, say that it was he that did the shooting and don't be afraid and my boss will help you out." He only asked me to say that it was "he".

Q Is there another thing that he told you to say upon the witness chair upon the trial of this case? A Yes, sir, that was the only thing he insisted upon my saying and at the last moment, at the very last moment when I was about to enter the court room and sit on the witness chair, he stopped me in the hall and he said "If you say what I told you, that Oreste Shilitano did the

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killing, my boss will help you. If not you will get twenty years in jail.

Q Is there a single thing that you can tell us now that Officer Degilio forced you to say in this case? A What Degilio said to me is identical to what DeMartini said to me. Every time he took me out he always pounded into my head the same words, "It was Oreste Shilitano that done the shooting."

Q Was there a single word said to you besides the words you have just spoken? A Always the same thing, that is all.

Q Nothing else? A They would add that they would get me twenty or ten years in jail. If not, they would aid me and assist me.

Q These were the only persons whom you now say forced you to say anything upon the trial of this case? A Yes, sir.

Q Now, on the trial of this case, you remember that before Judge Malone you were asked questions? A Yes, sir.

Q You were first asked these questions, "Did you see Oreste Shilitano on the 3rd of May last year" and you answered "Yes".

Q Where did you see John Rizzo that night? A In the poolroom.

Q Which poolroom do you refer to? A 235 Mulberry Street." Were these questions put to you and answers given? A I want to add something concerning the police officers, concerning what you questioned me about the police officers.

Q You first answer the question that has been put? (The former question is repeated)? A Yes.

Q Do you remember how that street was lighted up that night?

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A The lights are lit.

Q It was a Saturday night, was it not? A Yes.

Q There were many people in Mulberry Street at 11 o'clock?

A When this shooting took place I only saw a few people emerge from the poolroom.

Q There were other people walking through the streets, were there not? A After the shooting, yes.

Q It was a warm evening, wasn't it? A Yes.

Q And the stores were all still lighted up, were they not?

A Where we were the windows were lit, yes.

Q And there were electric lights in the street, large arc lights? A Well, I was right under the electric arc light.

Q You were there at that time in front of No. 235 Mulberry Street? A Yes, sir.

Q That is what you told us upon the trial also, wasn't it? A Yes.

Q John Rizzo left the poolroom before you did? A Yes, sir.

Q About how long before? A Might have been a minute or two before.

Q And did you go out alone from the poolroom? A Yes.

Q Did Rizzo go out all alone? A Yes.

Q As you reached the door of the poolroom at No. 235, where did you see John Rizzo? A I saw him between 239 and 241 on Mulberry Street, walking in the direction of Prince Street.

Q You were then about fifty feet away from him, were you?

A No.

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Q How far would you say you were away from John Rizzo at that moment? A I did not count the feet but it may have been ten fifteen or twenty, but I don't think it was more.

Q You were about ten to twenty feet away from John Rizzo at the moment when you came out of the poolroom, is that correct?

A Yes, sir.

Q And at that time you were standing right near a large arc light which is on the sidewalk? A Yes, sir.

Q And was it at that moment that you heard the pistol shot?

A Yes, sir.

Q How far away from John Rizzo was the person who shot Rizzo at that moment? A About ten feet or so.

Q Was that person nearer to you or further away from you than John Rizzo? A Nearer Rizzo than me.

Q Was he nearer to you or was Rizzo nearer to you? A I understand the question -- Rizzo was nearer to me.

Q You understand English pretty well? A No.

Q You understood that last question? A Well --

THE INTERPRETER: He understands it but cannot speak.

BY MR. WASSERVOGEL:

Q You read English? A No.

Q Didn't you read the English papers while you were in the House of Detention? A No.

Q All this happened between about quarter to twelve o'clock that night or half past eleven? A Yes, sir.

Q Which direction were you facing at the time when you saw

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Rizzo fall to the ground after you had heard the pistol shot?

A My face was turned towards the poolroom when I heard the shot-- when I heard the shot I just turned my head in the direction of Spring Street and then towards Prince Street and there I saw him fall down.

Q Did you say in which direction Rizzo was facing as he walked through Mulberry Street? A Towards Prince.

Q And in which direction was the person who did the shooting facing at that time? A I did not see in what direction he was looking.

Q You were asked by His Honor, Judge Malone, this question, were you not, "Did you see Shilitano at that time" and did you give this answer, "A Yes, he was in front of No. 241". Is that correct -- did you give that answer to Judge Malone? A Yes, sir, I did.

Q You were then asked "What did you see Oreste Shilitano do at that time? A He walked a pace or two" -- was that question put to you and did you give that answer? A Yes.

Q That was after Rizzo fell to the ground, wasn't it? A Yes.

Q Did you go over to where Rizzo was lying and help him up? A No, I went and called his mother.

Q Before you called his mother, what did you do? A After I heard the three shots I ran after the man who did the shooting.

Q You mean after three men had been killed, then you ran after the man who did the shooting is that correct? A Yes.

Q So you saw three men shot down in Mulberry Street? A Yes.

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Q And at that time you were about ten to twenty feet away from the men who were shot down, A Well, only ten to twenty feet from Rizzo, but I was further away from the spot where the policemen were shot.

Q About how far were you from the spot where the police officers were shot? A The distance from here to the end of this court room.

(It is conceded by counsel on both sides that the distance indicated by the witness is about fifty feet).

BY MR. WASSERVOGEL:

Q Were you asked this question upon the trial, "After Rizzo had fallen down to the ground, then what did you see Oreste Shilitano do? A I saw the policeman come across the street with a stick in his hand and then I saw the policeman get one shot" -- Was that question put to you and did you give that answer? A Yes.

Q Was this question then put to you, "And how far was Oreste Shilitano from the policeman at the time when this one shot was fired" and did you give this answer "Two or three feet"? A Yes.

Q Was this question then put to you, "What did you see the policeman do with the stick" and did you give this answer, "I saw him raising the stick in the air"? A Yes, sir.

Q Now just stand up and indicate to us now as you did upon the trial, exactly how the policeman held the stick in the air? A Like that. (The witness rises to his feet and raises his right hand above his shoulder).

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BY MR. WASSERVOGEL:

Q In his right hand? A Yes, sir.

Q And the man who shot the policeman was then about two or three feet away from him, is that correct? A Yes.

Q And you saw the gun in the man's hand, didn't you? A Yes.

Q How long after the first policeman was shot was the second police officer shot? A I don't know -- it was ^a question of a minute or seconds.

Q Where did the second policeman come from? A From Prince Street -- from the direction of Prince Street.

Q Did you see him fall? A No, I did not see that one fall.

Q What did he do? A After the shot was fired I saw him continue to walk for awhile.

Q And then he dropped, did he? A Yes.

Q Now, during all of this time, you were standing near what building? A 235.

Q And the person who did the shooting, what did he do? A He ran into 241.

Q 241 Mulberry street? A Yes.

Q And you followed right after him? A I saw the police officers running and I ran in that direction too.

Q Did you run into the building also? A Yes, sir.

Q It was you who telephoned to the police officers that they should call to see you in the House of Detention, was it not? A No, I don't remember that.

Q Was this question put to you upon the trial, "And when

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was the first time that you were brought down here and questioned" and did you give this answer "A I telephoned to them that I wanted to talk to them" -- that is, the detectives? A I really don't remember well -- I cannot very well remember everything that happened two years ago.

Q Will you swear now that you did not send word to DeMartini and Degilio to come to see you at the House of Detention, that you wanted to say something to them? A I remember their coming over and speaking to me, but I don't remember sending for them.

Q Will you swear now that you did not send for them? A I don't remember.

Q Will you swear now that you did not send for them -- you understand that question, don't you? A If I remembered I would tell you now. If I don't remember how could I swear.

Q After that didn't you send word to Mr. Murphy that you wanted to make a statement to him? A After they coached me, yes.

Q But the only thing which you say that you were coached to testify to was that Oresto Shilitano did the shooting, and nothing else? A Yes, but wait a moment, I now recollect the very identical words, the exact words they used -- I remember exactly what they said to me now, both Degilio and DeMartini together and alternately, that John Shilitano came to see me and told me not to identify his brother by all means, if I am taken to the Tombs, and they added that I should say that I saw Oresto Shilitano's face when I turned around and looked at the man who was doing the shooting.

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Q But that was all they told you with regard to the details of the shooting? A Yes.

Q Now on the trial you were asked this question, "When for the first time did you make the statement that you now make in court" and you gave this answer, did you not, "A I cannot exactly remember the date, but it was either the 2nd or the 3rd of February" -- is that correct? A What does that mean?

Q I want to know if that question was put to you and if you gave that answer? A Yes, sir, I remember that.

Q Then you were asked, were you not, "Why didn't you make that statement before" and did you give this answer, "Because I was afraid"? A Yes, sir.

Q What were you afraid of? A I was afraid of what the police officers told me.

Q No, no, you said the reason that you had not made the statement which you swore to upon the trial of this case before that time was because you were afraid; now, what were you afraid of at that time? A I don't remember that.

Q You don't remember ~~who~~ you were afraid, is that it? A No, I do not.

BY THE COURT:

Q Do you remember saying that? A No, I do not.

Q You remember the identical words that DeMartini and Degillie said to you -- now, don't you remember whether you sent for them or not? A No, sir, I do not know.

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BY MR. WASSERVOGEL:

Q Did you also say before Judge Malone, "Aranow and Shields told me the only thing we want you to do is not to place your hand upon the defendant"? A I did it in sequence to what they had told me.

Q Were you asked this question, "At the time that John Rizzo was shot and fell to the ground, did you see Oreste Shilitano", and did you give this answer, "I did not see Shilitano right away, because I only noticed the dead man first"? A Yes, sir

Q That your attention was attracted to the shooting by the report of the pistol shot -- is that correct? A Yes.

Q And did you say in court that it was then that you saw Oreste Shilitano shoot the two police officers? A Yes, sir, I did say it in court in furtherance of my instructions by police officers.

Q Which part of that did the police officers tell you to say? A Well, I could not tell you exactly which part. I was most of the time drunk and they kept on pounding at me, and I remembered the best I could what they told me to say, and I did it.

Q You were not drunk when you were brought into court and at the time you testified? A Well, when they brought me into court I had only had one glass of beer that day.

Q You were not drunk, were you? A No.

Q Did they tell you to say that you did not see the man who shot Rizzo, yes or no? A They told me to say as they told me, and I repeated what they told me.

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