

his property sent to his mother's home on Third avenue. We brought him to the Third Branch Detective Bureau in an automobile. We arrived there about five o'clock that morning, or a little after.

Q Then you booked him? A No, the District Attorney was there, and --

THE COURT: Which District Attorney?

MR. McDONALD: Mr. Joyce.

THE WITNESS: Assistant District Attorney Joyce.

MR. McDONALD: That is all.

MR. DEUEL: No questions.

MR. McDONALD: If your Honor please, the People rest.

MR. DEUEL: I am caught, at the rate the case was going this morning, your Honor, and from what the District Attorney told me, I thought --

THE COURT: You can make your opening this afternoon. Make your motions to dismiss, if you want to, if you have any motions. Get rid of that. Then if you want an adjournment to offer testimony, I will give it to you. Let us do all we can today.

MR. DEUEL: Your Honor, I move to dismiss the People's case on the ground that there is insufficient probative evidence to warrant a conviction as the case now stands, because the irreconcilable statement concerning the shooting, and the connection of this defendant with the shooting that have been made by the eye witnesses to the shoot-

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ing, it seems to me that the statements made by the various eye witnesses as to the participants in the shooting, their positions at the time, together with the fact that so many shots were fired by it is alleged the same individuals within a period of fifteen or twenty minutes at 110th street and Second avenue at 8:30 in the evening, is so improbable, so impossible, so unlikely that, as a matter of law, the People's case does not stand; it is not a prima facie case.

THE COURT: The motion is denied.

MR. DEUEL: Exception.

THE DEFENDANT'S CASE.

MR. DEUEL: Gentlemen, we are concerned with two propositions, one of them is conceded. The other proposition is not. The fact that Dominico DeLuca was shot through the arm is conceded. He bears the scar. The chair is here with its scar, and in all probability the shots were fired at 110th street and Second avenue on that night, in fact I will show you that shots were fired there, and by the men that fired the shots that did wound Domenico DeLuca. The other proposition is whether or not the defendant now before you on trial, fired any of those shots, or was there present. That he did fire the shots, that is denied. I think I will establish to your satisfaction the whereabouts of the defendant during that day and even-

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ing, which will show you the impossibility of his being on the scene at the time mentioned. It may be necessary, of course, in the development of the defendant's case, to show that a murder was committed a few minutes after the first shots were fired at Domenico DeLuca, and that a man was thereafter taken from the highway into this drug store as well. I think when all of the defendant's evidence is in, you will reach the same conclusion as I have, that this defendant was not there present.

I do not think -- it is needless for me to keep you any longer. The matter is so simple. It is simply a question of putting in the testimony to you. There is no reason why I should go over it in detail now. Unfortunately, anticipating that the District Attorney would occupy the full day, I let my witnesses go home this morning, and told them to be right here the first thing tomorrow morning.

Now, your Honor, I would like to have an adjournment until tomorrow morning.

THE COURT: You will begin the session with the submission of your testimony tomorrow morning?

MR. DEUEL: Precisely.

THE COURT: Now, Mr. McDonald, has that doctor arrived?

MR. McDONALD: Not yet, your Honor.

THE COURT: I do not want you to misunderstand my ruling. You can prove that a bullet was taken from DeLuca's

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arm by the doctor, if you can connect that bullet with the defendant. The mere finding of such cartridges in his house would not be such proof.

MR. McDONALD: I will rest.

THE COURT: It is conceded that DeLuca was shot and that the doctor would so testify if he were here, and that he took a bullet out of his arm.

MR. DEUEL: I will concede that.

THE COURT: I am anxious to have that done, because I told the District Attorney that I would not allow the doctor to testify, or allow him to prove from anything that had developed up to date, that cartridges of similar calibre were found in his room. You understand that. That proof might be properly connected, but there is nothing shown up to date that connects it. The doctor alone would not be sufficient to connect that. You can prove something at a time. If you will stipulate that the doctor had charge of DeLuca, and examined his arm, and took a bullet out of it --

MR. DEUEL: I will stipulate that the bullet that Mr. McDonald produced here, was the bullet that the doctor took out of the arm of Domenico DeLuca.

THE COURT: That will save a lot of time.

MR. DEUEL: That is stipulated.

MR. McDONALD: May I put that in?

THE COURT: You may put the bullet in.

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MR. McDONALD: Lieutenant Price has it. I told him to keep it until I called him here.

THE COURT: Now, gentlemen of the jury, the rule is that you must not talk about this case in which you have been impaneled, with anyone. You understand that. That means you must not discuss it among yourselves, and above all that you must not talk about it with strangers. You must neither form nor express any opinion until you have heard all the evidence here, all that is to be said by both sides. You must keep an open mind until the Court submits the case to you, if it should submit it to you, for your decision. That is the time to decide it, and not before that.

You will please be here at half-past ten tomorrow morning.

(Whereupon the trial was adjourned to Tuesday morning, January 8, 1917, at 10:30 o'clock).

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New York, January 8, 1918.

TRIAL RESUMED.

S A M S A C C O , the defendant, called as a witness in his own behalf, being first duly sworn, testified as follows: (1975 Third avenue, New York City)

DIRECT EXAMINATION BY MR. DEUEL:

Q How old are you Sam? A I will be 34 years old in May.

Q Where were you born? A United States; New York City.

Q You are of Italian parentage, of course? A Yes.

Q Where do your parents live in New York? A They are in Europe at the present time.

Q What relatives have you in New York? A I have a sister and two brothers.

Q Where does your sister live? A 1975 Third avenue, New York City.

Q What is her name? A Mrs. Rose Maio.

Q What is your brother's name? A James Sacco.

Q Sacco, you have been convicted of a crime, have you not?

A Yes, sir.

Q What crime? A I first was convicted of robbery in the second degree; I pleaded guilty before Judge Swann.

Q When? A In 1910.

Q That is your first conviction, is it? A Yes, sir.

Q How long did you serve that time? A I done twenty months in Elmira Reformatory.

Q After that were you convicted again? A Yes, sir.

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Q Of what? A Having a gun in my possession.

Q When was that? A I was arrested on January 26, 1912.

Q Did you serve time for that? A Yes, sir.

Q Were you convicted again? A Yes, sir.

Q When? A In May, no, I was convicted again in September.
I was arrested for simple assault.

Q What year? A 1914.

Q Did you serve time for that? A Yes, sir.

Q Were you convicted after that? A Yes, sir.

Q When? A In May, 1915.

Q What was that crime? A Having a weapon in my possession.
sion.

Q And you served time for that? A Yes, sir.

Q When did you come out of jail, Sam, the last time?

A May 16, 1917.

Q After you came out of jail the last time, you worked,
Sam? A Yes, sir.

Q Where did you live? A I lived with my sister at 1975
Third avenue.

Q You know the DeLuccas, do you not? A Yes, sir.

Q You have known them for some time? A I know them for
several years.

Q Have you at any time had any trouble or words with them
of any sort? A No, sir.

Q On the 20th of August, 1917, Domenick DeLuca appears
to have been shot in the arm; did you fire the shot? A No, sir.

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Q If is stated that that occurred at half past eight or nine o'clock that evening, at 110th street and Second avenue, in front of the saloon; were you there in the neighborhood at that time? A No, sir.

Q Where were you on August 20th in the evening? A Coney Island, at a banquet.

Q Where was that banquet? A Sixteenth street.

Q What time did you go down there? A I arrived there about a quarter to nine.

Q Where were you living that day? A In the Remington Hotel, 46th street and Broadway.

Q What time did you get back from the banquet? A Quarter after one.

Q Where did you go after that? A Right directly to the hotel.

Q Without mentioning any names, I do not think it is necessary -- there was a young lady who was living with you at that hotel, was there not? A Yes, sir.

Q After you got back to the hotel did you buy any newspaper? A Yes, sir.

Q Did you read anything in that newspaper? A Yes, sir.

Q What did you read that attracted your attention? A The death of my brother.

Q What was your brother's name? A Joseph Sacco.

Q What was that news item; what did it say?

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THE COURT: How is that material?

MR. DEUEL: It is material in this respect --

THE COURT: He read a news article, containing the article concerning the death of his brother Sacco. That is all I will allow. There is no use explaining the record. If you want to specify the manner of his death, whether natural or by violence of any kind, you may do that, but the details as to what he read I think are immaterial.

Q Was that death by violence or not, if you know?

MR. McDONALD: Objected to unless he knows.

THE COURT: He read a news item concerning the death of his brother, whether natural or otherwise.

MR. McDONALD: The objection is withdrawn.

A I read that he was shot.

Q What happened after that in your hotel, with respect to you? You were arrested, weren't you? A Yes.

Q You were arrested in the hotel at what hour? A About 2:30 in the morning or later.

Q Where were you taken to from there? A To the Third Branch Detective Bureau in 116th street.

Q Who took you up to the Third Branch? A Several detectives.

Q What happened when you got to the Third Branch? A I was brought up there. I went up the stoop. One of the detectives, a grey headed fellow, seen me there. This detective seen me

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once before. He said, "Aha, I thought you were a working fellow." I said, "I am." He said, "Come upstairs." Take me upstairs in the room, and I seen Dominick DeLucca, Tony DeLucca, Robert Rossie, and another fellow I don't know, and Detective Caputo. Then the greyheaded detective asked me if I knew Robert Rossie. I said, "Yes, sir, I have been acquainted with the man in State's Prison, at Comstock." He said, "Are you a friend of his?" I said, "Yes, sir." And this detective turns around and says to Robert Rossie, "Do you know this man?" -- "Yes, sir." -- "Are you a friend of his?" -- "Yes, sir."

He said, "What did this man do to you in the Bronx?" He says, "That man shot me four times in the Bronx." I repeated back to him, I said, "Did I shoot you four times in the Bronx?" He did not answer. He put his head down.

Then I was taken to another room by the same detective, and he sat me on a chair. I sat down. There was Charley Young in there. When I seen this Charley, one detective had hold of him under the arm.

MR. McDONALD: I object to this.

THE COURT: I do not see what bearing it has. The detectives are not on trial. The detective has not testified to any confession that I recall.

MR. DEUEL: Well, perhaps I am a little premature with that.

THE COURT: The question is, whether he shot DeLucca or not, with intent to kill, with deliberation and premedi-

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tation.

Q You did not shoot him? A No, sir.

Q You were not there present? A No, sir.

MR. DEUEL: Your witness.

THE COURT: He may testify concerning any statement alleged to have been made by any of the other witnesses, if that is the purpose of it.

MR. DEUEL: I was, perhaps, a little premature.

CROSS EXAMINATION BY MR. McDONALD:

Q You say the first time you were arrested, was in 1910?

A Yes, sir.

Q That was for robbery? A Robbery. I pleaded guilty to it.

Q You used a gun in that case, didn't you? A No, sir.

Q Was there a gun used? A Yes, sir.

Q You did not use it? A No, sir.

Q One of the other men arrested with you used a gun?

A Yes, sir.

Q You say you were arrested again in 1912? A Yes, sir.

Q And convicted? A I pleaded guilty.

Q And that was another pistol affair? A Having a concealed weapon in my possession.

Q What do you call a concealed weapon, a pistol?

A A pistol.

Q You were arrested again in 1914? A Yes, sir.

Q And sent to the Island for six months? A Yes, sir.

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Q Did you use a pistol on that occasion? A No, sir.

Q In 1915 you were convicted again, weren't you?

A Yes, sir.

Q You did twenty months in Elmira, you say? A Yes, sir.

Q Thirteen months, that is the regular time, isn't it?

MR. DEUEL: I object to the insinuation of the District Attorney.

THE COURT: I will allow it.

MR. DEUEL: Exception, if your Honor please. I think the rules of the Elmira Reformatory are immaterial in this case.

THE COURT: He may ask him if he was detained there twenty months.

MR. DEUEL: Exception.

A I was reported sometimes for laughing, sometimes for my bed not being made right, and sometimes for a little dust being on the wall, and sometimes for a drop of water on the floor, which calls for your losing time.

Q And they kept you there for seven months for that?

A Yes, sir.

Q How old were you when you first went to prison? A 17.

Q That is when you went to Elmira first? A Yes, sir.

Q In 1912, what sentence did you get? A Three years.

Q At Sing Sing? A Yes, sir.

Q And in 1914, six months on the Island? A Yes.

Q In 1915, you were convicted of carrying a weapon? A Yes.

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Q What was that? A A pistol.

Q You had it on your person at that time? A It was found on the floor.

Q Did you plead guilty? A Yes, sir.

Q It was your pistol, however? A I pleaded guilty.

Q It was your pistol? A Yes, sir.

Q You were sentenced to what? A Two and a half years in State's Prison.

Q When did you come out of prison? A May 16, 1917.

Q What have you been doing since then? A I worked until July 32nd.

BY THE COURT:

Q At what? A For J. C. Hoffman, in a paper factory.

Q What capacity, driver, laborer, or what? A Taking out the machine.

BY MR. McDONALD:

Q How long did you work there? A Six weeks, from June 1st to July 31st.

Q Where were you living at that time? A 1975 Third avenue.

Q With your sister? A Yes, sir.

Q Then where did you move to? A 148 West 46th street.

Q What did you do there? A I left 148 and moved to 158 West 46th street.

Q How long did you remain in 148? A About two weeks.

Q Were you working at that time? A No.

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Q Were you working at all? A No, sir.

Q Were you living there with anyone? A Yes, sir.

Q With whom were you living? A A girl.

Q What is her name? A Caroline Sorro.

Q Is she a prostitute? A No, sir.

Q Has she been convicted of prostitution? A No, sir.

MR. DEUEL: I object to that, and I move that the answer be stricken out.

THE COURT: He said no. He has answered it. If a man lives with a prostitute it is a disgraceful act, and it may be a criminal act, but he said no, that he did not.

MR. McDONALD: I think he said she had been convicted of prostitution.

MR. DEUEL: He said no. I ask your Honor to ask the jury to disregard all this matter pertaining to the girl.

THE COURT: This is proper cross-examination for the purpose of attacking his credibility. If a man knowingly lives with a prostitute I will charge the jury that that is a matter that affects his character to the extent that they may consider it on the question of his credibility. They can determine what weight they will give to it. He has answered no to the question, therefore it is not binding on him, so that it does not affect him in any way.

MR. DEUEL: I am afraid I was a little more concerned about the girl than I was of him when I made my objection.

Q You are not married to this young lady? A No, sir. I

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was intending to marry her. I was living as husband and wife.

Q You lived there two weeks? A Yes, sir.

Q And then you moved to 158? A Yes.

Q And that is what? A A furnished room house.

Q You say you lived at 158 how long? A About two weeks.

Q Did you work while you were living there? A No.

Q This young lady, what is her name again? A Caroline
Sorrow

Q Miss Sorro? A Yes.

Q She did not work? A No, sir.

MR. DEUEL: I object to that, your Honor.

THE COURT: I will allow that.

MR. DEUEL: Exception, please.

BY THE COURT:

Q You were not working, did you say? A Not at the time
I lived in 46th street.

Q Were you working between July 31st and the date of your
arrest? A No, sir.

BY MR. McDONALD:

Q How did you pay the expenses? A My brother Joe gave
me some money, and before I came out of State's Prison there
was a benefit run for me which rendered me eighty dollars, and
I received that money on the date of my discharge. And I had
coming out of State's Prison about thirty dollars, and I worked
for six weeks. For the first two or three weeks I received
\$12.00 per week at the start, and then I was given an advance

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of three dollars, which made \$15.00 a week, and I only used to pay \$15.00 monthly rent to my sister.

Q Did you pay any expenses of yourself and this girl in 46th street? A Yes, sir.

Q You say you lived in 154? A 158.

Q For two weeks? A Yes, sir.

Q Then where did you go? A From 148 I went to 158. Then I moved into the Remington Hotel on August 20th about between two and three p. m.

Q In the afternoon? A Yes, sir.

Q And did you take this girl with you? A Yes, sir.

Q You registered there as what? A Man and wife.

Q What name did you give there? A Mr. John J. Rossie.

Q Why did you give John J. Rossie? A Because I did not want to let no one know where I lived.

Q But you had been receiving money from your brother, hadn't you? A Yes, sir.

Q And didn't he know where you lived? A Well, the police did not know where I lived.

Q You registered in the Hotel Remington so as not to let the police know where you were? A Yes, sir, where I lived.

Q Did they know when you lived in 158 and 146? A Not to my knowledge.

Q What name did you give there? A Rossie.

Q The same name? A Yes, sir.

Q Charley Young lived there too? A I found him in that

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hotel.

Q You found him in there the day you registered, didn't you?

A I did not see him there that day.

Q When did you see Charley? A I did not see him until I went in 116th street, the Third Branch Detective Bureau.

Q Did you know that Charley Young was registered in that hotel? A No, sir.

Q I thought you said that you did know? A I did not know that Charley Young registered at that hotel.

Q When did you find out that he was living in the same hotel as you? A He told me in the Tombs.

Q Why did you change your name in fear of the police?

A Because one afternoon it was too hot to work in the shop, I took a half day off.

Q What shop? A In the paper shop of J. C. Hoffman. I walked as far as 116th street and Third avenue, and got on a chair and got a shine and Detective Quain comes along and sees me on the chair and tells me to come to the Third Branch Detective Bureau. I goes up there and he asked me what I was doing for a living and I told him. I told him I intend to go straight. He took the name of the place where I was working, took the address of the place where I was living, and asked me for my registration card. I told him I had it in my other suit up at the house. I said if he did not believe me I would go up and get it and go down with him. He said it was not necessary.

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So I was afraid that they would harm me right along. I did not go to work after July 31st, and I did not let the police know where I lived.

Q You quit Hoffman? A Yes, sir.

Q You had not any reason to fear the police, had you?

A If they kept hounding me.

Q They had never framed you; you were always guilty every time you were convicted? A Yes.

Q They never attempted to frame you up in any way? A No, but I was shot by one of them.

Q When was that? A January 26th, 1912.

Q What were you doing when you got shot? A I was sitting in a cafe. I was working for a tailor in East 110th street, and I came home from my work.

Q That is the time you pleaded guilty for carrying a weapon?

A I did.

Q And he shot you? A He shot after he took the weapon out of my pocket.

Q You had not done anything then? A No, sir.

Q You were going right along with him? A They started hitting me in a cafe and I ran to him, Detective Cassetti and Macini.

Q You were going away from the officers? A After they started hitting the man, they made an attempt to hit me, and I jumped away.

Q They did not hit you? A They shot me.

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Q You say that is the time you were shot? A Yes.

Q You say you were not in this neighborhood that night at all? A What neighborhood?

Q 110th street and Second avenue, on the night of the 30th of August? A No, sir.

Q You came home about what time? A Quarter after one.

Q In the morning? A Yes, sir.

Q Did you take Miss Sorro down there with you? A No.

Q Was she home when you came home? A No, sir.

Q Did she come in after you got home? A Yes, after I got home.

Q Do you know where she had been?

Objected to. Objection sustained.

MR. McDONALD: That is all.

LENA SACCO, of 2129 Second avenue, a witness sworn on behalf of the defendant, testified as follows:

DIRECT EXAMINATION BY MR. DEUEL:

Q Mrs. Sacco, you are the wife of Joseph Sacco? A Yes.

Q When was your husband killed?

MR. McDONALD: I object to that unless she knows.

THE COURT: I will allow it if she knows.

MR. McDONALD: She was not there.

A I was there. Don't aggravate me. On the 30th of August.

Q About what time? A About a quarter to nine.

Q Where? A On the corner of Second avenue, outside of the drug store.

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Q Second avenue and 110th street? A Yes.

Q And you were there at the time? A Yes, sir.

Q Just before this occurred, you were at your home on First avenue? A At my sister's door.

Q Where is that located? A Between 109th and 110th street on First avenue.

Q You had gone to walk around towards that drug store, had you not? A I lived in 110th street. We heard shots before we walked up that way. We heard four shots.

Q Who walked up that way with you? A Two or three other fellows, my husband, I and there was quite a crowd ran up with him when we heard the shots.

Q What street did you run through? A 110th street.

Q Then you reached the drug store? A Yes, sir.

Q Do you know your brother-in-law Sam? A Yes, sir.

Q Did you see Sam on 110th street? A No, sir.

Q When was the last time you saw Sam before that evening?
A The last time I seen him, I could not just remember. It might have been about two months before. He was up to a dinner, him and his sister.

Q Did you see him that evening at all, anywhere in that neighborhood? A No, sir.

MR. DEUEL: Your witness.

CROSS EXAMINATION BY MR. McDONALD:

Q You heard some shots when you were where? A When we were on First avenue we heard four shots.

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Q And you and your husband ran to Second avenue? A My husband and I and a couple of other fellows ran up towards Second avenue from First avenue.

MR. McDONALD: That is all.

P E T E R B I A N C O , of 334 Hearth avenue, Astoria, Long Island, a witness called on behalf of the defendant, was sworn and testified as follows:

DIRECT EXAMINATION BY MR. DEUEL:

Q Peter, you served time in Elmira? A Yes, sir.

Q For what crime? A For a violation of parole.

BY THE COURT:

Q What was the violation of your parole? What were you sent to Elmira for? A I was sent back to Elmira for violation of parole.

Q What were you sent there for the first time? A For manslaughter.

Q Then you were afterwards charged with failing to live up to the rules, and they sent you back? A Yes.

Q What was the particular failure, in which you did not live up to the rules? A I do not understand.

Q What did they consider to be a violation of your parole?
A This crime here.

BY MR. DEUEL:

Q What is this crime here you committed? A Attempted murder.

Q Against whom? A This DeLuca.

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Q Dominick DeLuca? A Yes.

Q When did it occur? A It occurred on August 30th.

Q What did you do that evening? A I shot him in self defense.

Q Where? A At 110th street and Second avenue.

Q About what time? A I could not tell you the time exactly.

Q Well, was it in the morning, noon or afternoon? A It was evening.

Q Was this man Sacco with you? A No, sir.

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

Q You are sure he was not with you? A Yes, sir.

MR. DEUEL: Your witness.

CROSS EXAMINATION BY MR. McDONALD:

Q How long do you know the defendant, Sacco? A I know him for the past three or four years.

Q Where did you meet him, or how? A I knew him through my brother.

Q Where did your brother live? A He lived in 110th street at the time.

Q 110th street, between Second and First avenue? A Yes.

Q Sam Sacco used to visit with your brother? A Yes.

Q Very frequently? A Well, maybe once or twice a week.

Q How long do you know the DeLuccas? A I was born and brought up there. I knew them quite a while.

Q This manslaughter conviction that you speak of, that

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was for the killing of one Joseph Talentino? A As accomplice.

Q Did you plead guilty? A Yes, sir.

Q And you have pleaded guilty of assault in the first degree upon the DeLuca case? A Yes, sir.

Q Where did you go after the shooting? A I went to Philadelphia.

Q How many shots did you fire? A Three or four shots, I don't remember.

Q And where were they fired from? Where were you standing when you fired these shots? A Five or six feet away from DeLuca.

Q Where were you, on the sidewalk or on the street?
A On the sidewalk.

Q Near the gutter? A It was right between the middle of the sidewalk and gutter, about five or six feet away.

Q Were you facing DeLuca? A When I shot him I turned around. I did not mean to kill him, just to scare him.

Q Where did you get the gun? A About three weeks before the shooting I was eating in a chopsuey restaurant, on 115th, between 115th and 116th street on Third avenue. While eating, some fellow came up to me and said, "Will you loan me a dollar on this gun?" I said, all right, and I loaned him a dollar. He never came back for the gun.

Q So you carried that gun for about three weeks? A No, I kept the gun home.

Q What was the name of this fellow, do you know? A No.

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Q The fellow that you got the gun from? A I don't know. He comes from 114th street, but I don't know his name.

Q So you fired three times at him? A Three or four times.

Q Did you stand in front of the saloon when you fired the shots? A They were sitting in front of the saloon.

BY THE COURT:

Q Where was the saloon? A 110th street and Second avenue, on the corner.

Q DeLuca's saloon? A Yes.

Q And DeLuca was sitting outside? A Yes.

Q Was anybody else with him? A Yes.

Q Did you know any of the others? A Yes, sir.

Q Who were they? A Dominick DeLuca, Robert Rossie, DeLuca's brother, and some fellow by the name of Dany.

Q They were sitting in front of the saloon? A All sitting in front of the saloon.

Q Which way did you approach the saloon? A I came from 111th street, and walked up to 110th street and Second avenue.

Q Did you walk on First or Second avenue? A Second avenue. I got off the "L" station at 111th street and Second avenue, and walked down.

Q Is this saloon on the uptown or downtown side? A It is on the downtown side.

Q Near 109th street, not near 111th street? A Yes, sir.

Q So you walked down? A Yes.

Q Were you alone? A Yes.

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Q Where did you stand? A I stood right in front of the saloon.

Q There was something said about a restaurant sign; were you near that? A I don't know of any restaurant down around there.

Q A free lunch sign. A In front of the saloon?

Q Yes. A I did not see any.

Q Do you know the saloon? A Yes.

Q Were you in it often? A No, I don't think I had been in that saloon once.

Q But you had seen it before that time? A Yes, sir.

Q Where did you start from to do this killing? A I lived at Astoria, Long Island. This Tony DeLuca beat me up in the morning.

Q You left your house with the deliberate intention of going to shoot him? A No, I was going to my cousin's house.

Q What time did you make up your mind to shoot DeLuca?
A I did not make up my mind to shoot deLuca. I just carried this gun to defend myself. I went along Second avenue, and this Dominick DeLuca seen me pass, he said, "You dirty" — do you want me to express the full meaning?

Q Say anything that happened. A He said, "You dirty cooksucker, are you around here again?" He picked up a chair and tried to hit me. I turned my back and I shot.

Q You shot three or four times? A Yes.

Q That is all you know about it? A Yes.

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Q Where does this brother of yours live that you were going to? A He is doing time at the present.

Q Was he doing time then? A Yes.

Q How could you go to see him if he was doing time? You mean he was in prison? A My brother, but I was going to see my cousin.

Q Where was your cousin living? A He lives a few houses away from DeLucca's saloon.

Q Where is that? A On Second avenue.

Q Above 110th street, or below? A Between 109th and 110th.

Q And you say you had to pass DeLucca's saloon to see your cousin? A Yes.

BY MR. McDONALD:

Q Just show us how you shot? Where were you standing and how was DeLucca standing? A He picked up a chair. He was sitting this way (witness indicating by sitting on the chair, facing the back of the chair, with one leg over each side of the chair). He said to me, "You dirty cocksucker". I turned my back (indicating a half turn).

Q Did you turn your back to him? A Halfway.

Q Pointed your arm at him? A No, sir, I did not point at him, I just fired. I don't know where I was firing. I know I did not mean to kill him, because if I wanted to kill him, I was right there and I could have done it there.

Q When you finished firing the three or four shots, what did you do? A I run up 110th street.

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Q Towards Third avenue? A Yes.

Q Did anybody follow you? A There was lots of people there, all looking at me; quite a number of people.

Q Did anybody run after you? A Nobody run after me.

Q Where did you go? A I run up in a building, and went up the roof, came down the next building, and went out through the yard and got out 111th street.

Q Then where did you go? A I walked up to Third avenue.

Q Did you hear any more shooting at all? A No.

Q You never heard another shot? A No.

Q Just show us on People's Exhibit 3 where you were standing when you *fixed* the shots, and where was DeLuca, and make a mark. A Which DeLuca?

Q First, where were you standing? A I was standing about here (indicating).

Q Put a letter "B" there. A (indicating by mark "B").

Q Where were these four or five men that you saw? A About four men. Here Dominick was sitting, no, I made a mistake where I put "B", it should be here (indicating by making another "B"). This is where Dominick was sitting (indicating).

Q The doors were probably open on August 20th, and they are closed on the picture? A Yes. This is where Dominick was sitting; next to him I ain't sure whether it was Robbie or Danny. Then there was the other brother, Tony, he was sitting way at the end. No, I think I am mistaken. This has got me puzzled. I got it now. I was standing about here (indicating by making

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mark"B"). Here is where Dominick was sitting (indicating).

Q Put a "B" there. A (Witness indicating by marking B). Here is where those two other fellows were sitting (indicating). There were four chairs all in a row. Dominick was sitting here (indicating to the right of the saloon door).

Q And you were standing here where the "B" is? A Yes.

Q You say you went home; what time did you arrive home?

A I don't remember what time it was.

Q Did you tell your father anything about what had happened?

A No, sir.

Q You remained home all night? A Yes, sir.

Q Then did you leave home the following day? A No, sir.

Q When did you leave home? A About two days after.

Q Where did you go? A To Philadelphia.

Q What name did you go under in Philadelphia? A Well, I used to have Pete White, Bruno, all different names. I did not have any particular name.

Q Where did you live? A I lived on 17th street.

Q How long did you live there? A As long as I was there. I left New York on the 22nd, and I got arrested on the 7th of September in Philadelphia.

Q You were arrested by whom? A By Detective Couzzins.

Q You were brought back to New York? A Yes.

Q Were you taken to the Third Branch? A Yes, sir.

Q Did you make any statement there? A No, sir.

Q Did you refuse to make any statement? A I did not make

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any statement at all. Yes, I refused.

Q Did they try to compel you to make a statement? A Yes.

Q What did they do to you? A Beat me up.

Q You did not make it, however? A No, sir.

Q You would not confess to any crime just because you were being beaten, were you? A I was not getting any justice there. That is why I did not want to make any statement. I will do it now because I am in court.

Q You are sure that no harm will come to you here? A Yes.

Q Were you then taken down to the Tombs? A I was brought from there to where you get your finger prints.

Q At Headquarters? A Yes.

Q Then where were you brought? A From there to the Tombs.

Q Where were you placed? A On the second tier.

Q Did you see Sam Sacco there? A Yes, sir.

Q When did you see him? A The following day. I just seen him on the walk.

Q Did you see Charley Young there, too? A Yes, sir.

Q You talked to them, didn't you? A Yes, sir.

Q What was it they were saying? A There was some runner on the tier who knew I was implicated in that case, and he told Charley, he said to Charley Young, "They got that fellow in Philadelphia," for that shooting match in 110th street." So Charley came over to me and he said, "Is that right?" I told him yes. I told him the case.

Q Didn't you know that they had Charley? A No, sir.

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Q Did Charley tell you then? A He told me he was implicated.

Q When? A In the Tombs.

Q In that same talk that you had with him? A Yes, sir.

Q What happened then? A Then I wrote a letter to District Attorney Swann.

Q Did you talk to Sacco before you wrote to the District Attorney? A Yes, sir. I seen Sam Sacco in the Tombs.

Q Did you talk to Sacco before you wrote to the District Attorney? A I just told him about the case.

Q What did you tell him? A That they had me on that case at 110th street and Second avenue.

Q Where did you see Sam Sacco then? A In the Tombs.

Q Was he on your tier? A No, sir.

Q How did you talk to him? A You could see them when they walked around.

Q Did you talk to him then? A Yes.

BY THE COURT:

Q What tier were you on? A Second tier.

Q And he was on what tier? A The third.

Q When you say tier, you mean floor? A Yes.

Q You could walk around the space there? A Yes.

Q He was walking on the third floor and you were walking down on the second? A Yes.

Q And you had a talk about this affair? A Yes.

Q And there were hundrede of other prisoners present? A Yes.

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Q Tell us what you said to him and what he said to you?

A I seen him there and I asked him about why they had him there and he told me about it. He said, "They got me here on the case which I don't know nothing about", and I looked at him. Then I told him my story. That was about all I had to say.

BY MR. McDONALD:

Q Then you decided to write a letter to the District Attorney? A Yes, sir.

Q After you had this talk? A yes, sir.

Q Why didn't you say you wanted to see the District Attorney when you were arrested? A I did not have no chance.

Q Why? A I got arrested and they brought me to Headquarters, and from there they brought me to the Tombs.

Q When was it you wrote to the District Attorney? A The following day.

Q After the talk with Sam Sacco and Charley Young? A It was not exactly the following day; I don't remember. A few days after I think it was.

Q A few days after you had a talk with Charley Young and Sam Sacco you wrote the District Attorney, asking for an interview? A Yes, sir.

Q What day were you arrested? A September 7th, wasn't it?

Q Don't you know? A I don't know exactly the day, the 7th or 8th.

Q Don't you know that you did not make a statement to the District Attorney until after you had been in the Tombs about

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seventeen days? A No, I was kept in Philadelphia about eleven days.

Q You were kept in Philadelphia about eleven days? A Yes.

Q That would bring you back to New York about when, the 19th or 18th? A ABout that.

Q About the 19th? A Yes.

Q Then you were lodged in the Tombs? A Yes.

Q And you were there at least five days before you made the statement to the District Attorney? A About two or three days.

Q When did you write the letter to the District Attorney?

A I don't remember the day I wrote the letter.

Q How many days did you write the letter before you made the statement? A I was there a few days in the Tombs before I wrote the letter; there two or three days.

Q Two or three days before you wrote the letter? A Yes.

Q Where did you get the money from that you went to Philadelphia with? A I was working for the Long Island Freight Department and I got paid. I got about twenty-two or twentyfour dollars, and I gave that to my parents, so the day I left I told my parents I needed the money, and I got it and I went away.

Q You pleaded guilty to assault in the first degree? A Yes.

MR. McDONALD: That is all.

MR. DEUEL: (addressing the jury) Gentlemen, in the case of Bianco, there is this note upon the indictment, "Bianco pleads guilty to assault in the first degree as a

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first offense. Sentence deferred and defendant returned to Elmira Reformatory. Bench warrant lodged therein for return for disposition on this indictment."

BY MR. DEUEL:

Q Concerning your relations with Dominick DeLucca, you said that you had the gun when you went to your cousin's house that afternoon to defend yourself with? A Yes, sir.

Q Had you any reason to fear any bodily harm? A Yes.

MR. McDONALD: I object to that.

THE COURT: I will allow it.

Q What was the reason that you feared bodily harm? A Because I was beat up that morning, by Tony DeLucca. I knew I was going to pass that saloon so I thought I would carry a gun in case they bothered me, to scare them.

BY THE COURT:

Q Who was this cousin you were going to see, a man or woman? A A man.

Q What is his name? A Tony.

Q Tony what? A Purdo.

Q Why were you so anxious to see Tony Purto, that you had to pass the saloon? A Because my cousin called me up about five o'clock, he said, "Say, Pete, you got anything to do tonight?" I said, "No". He said, "Come to the house", he said, "We have got a mandolin, and we will pass the night".

Q So you were not so much afraid of passing DeLucca's saloon? A I was beat up that morning and I thought they would

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not bother me any more.

Q But just as soon as you struck the saloon the firing began? A He told me, he said, "You around here again, you cocksucker". Then I fired the shots.

Q You had never been in the saloon? A Not while he owned it.

Q You had never been in the saloon? A Never while he owned it.

Q How long did he own it? A I do not know.

Q Had you ever been in the saloon before he owned it?

A I used to go there when I was a small boy.

Q How long ago was that? A About eight or ten years ago.

Q Where did this beating take place? A Took place between 110th and 111th street on Second avenue, by the candy store.

Q You were living in Astoria, you say? A Yes.

Q What time did it take place? A In the morning, I don't remember.

Q What time in the morning? A Nine or ten or eleven o'clock.

Q But you were working, you say? A At the present time I was not working there.

Q You said you worked in a freight department and got \$23 that you gave to your parents? A Yes, I was working with them, but I was not working at the present time.

Q You mean on that day you were not working? You took a day off? A I left the Long Island freight department about two

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or three weeks before this occurred, before this shooting.

Q You were not doing anything then? A My father has a house over in Astoria, and I was helping him to fix up the house and painting, helping my father.

Q On the 20th you had off? A I went to 111th street and Second avenue to buy some shingles.

Q For this Astoria house? A Yes, sir.

Q And while there DeLuca beat you up? A Yes, sir.

Q For no reason? A For no reason whatsoever.

Q He did not like you? A He met me a few days before he beat me up, at Third avenue and 115th street, and he said to me "Remember, Pete, you are the next one is going to get it". I did not know what he meant. I tried to convince him what it was. He said, "You are the next one that is going to get it". I didn't know what for. I never done him nothing.

Q He just took a dislike to you? A Yes.

Q What did he beat you with that day? A With a stick.

Q He did not use a gun? A No.

BY MR. McDONALD:

Q Why didn't you tell your father about the shooting?

A I did not want to give him all that trouble, to let him know about it.

Q Did you see anybody going towards the drug store after you did the shooting? A No, sir.

Q Did you take any time at all to see whether anybody had gone to the drug store? A I stopped at the corner and turned

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around. I did not see nobody.

Q You mean you stopped at the corner of the street and avenue there? A On the other side, I just stopped and turned around and went ahead.

Q You mean the drug store corner? A No, sir, on the west side corner.

Q You went across the street? A Yes, sir.

Q And stood there a few minutes? A No.

Q You just walked across the street? A I was running and I turned around and I went ahead.

Q Did you know that you had shot Dominick DeLucca that night? A I didn't know I shot him, no, sir. I know I fired shots.

Q What did you do with the gun? A I threw it on the roof of this building where I run up.

Q A tenement house, was it? A Yes, sir.

Q You say you came down that same building again? A No, sir, I went down the next building.

Q Who was it called you that name as you came along?

A Dominick DeLucca.

Q Not Tony? A Dominick.

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

Q At least Tony was the one you had the argument with?

A Yes, sir.

Q And Tony was the one that picked up the chair, was he?

A Dominick was the one.

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Q Oh, Dominick. A Dominick.

Q Are you sure about that? A Yes.

Q Dominick is the one that picked up the chair? A Yes.

Q And called you, what was it? A A dirty cocksucker.

Q Did he say anything else? A That is all he said.

Q Dominick? A Yes.

Q Now you know Dominick, don't you? A Yes, sir.

(Mr. McDonald requested Dominick DeLuca to stand up).

Q Is that the one? A Yes.

Q Your recollection is just as good today as it was on the 24th of September, isn't it? A I don't understand what you mean.

Q You remember this occurrence very strongly, don't you?

A Yes, sir.

Q You are positive about this? A Yes, sir.

Q Do you remember talking to the District Attorney up in the office on the top floor? A Yes.

Q Do you remember being asked, "What were they doing?" and you made this reply, "They were sitting in front of the saloon. They had chairs out there; so this Tony who was sitting right at the end, he seen me first, and, excuse me, for talking like this, but he picked up a chair and he said, 'You dirty cocksucker, are you around here again?' And he picked up the chair and wanted to make a swing, and as soon as he picked up the chair and wanted to make a swing, I shot him."

A Dominick DeLuca.

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Q Didn't you say Tony? A Dominick.

Q Didn't you say Tony did it in your direct examination today? A It was Dominick.

Q Dominick had never had any fight with you, had he?
A No, that is his brother.

Q Dominick had never had any fight with you? A I never had anything to do with him.

Q Tony was the only one that was fighting with you? A Yes.

Q He had licked you that morning? A Yes.

BY THE COURT:

Q Did you tell the District Attorney that Tony did these things which you now say Dominick did? A No, sir.

Q You are sure you did not tell him? A Yes.

Q There was a stenographer present then, wasn't there?

A Yes.

Q He wrote down everything that was said? A Yes.

Q But he did not take down what you said correctly. You said Dominick and he wrote Tony? A Yes.

Q He knew the family, I suppose? A Probably that was a mistake.

Q Not your mistake? A No, sir.

MR. DEUEL: I object to this.

THE COURT: I want the facts.

A I am positively sure the way they were sitting.

Q You are asked whether you told the District Attorney that Tony did these things that you say now Dominick did? A Yes.

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Q Tony and Dominick are two different persons? A Yes.

Q You are sure of that? A Yes.

Q You do not want to change the testimony you gave here today at all; today you have given us the true version? A Yes.

Q What you said today is the truth? A Everything I am saying today is the truth.

MR. McDONALD: That is all.

MR. DEUEL: The context of the previous testimony clearly indicates that there was a mistake made in the transcript.

THE COURT: Of course, the jury will disregard that statement. It clearly indicates that to Mr. Deuel, perhaps. S A M S A C C O , the defendant, recalled.

BY MR. DEUEL:

Q Sam, I show you a board, with a piece of metal attached to it. Have you seen that before (showing Defendant's Exhibit B)? A Yes, sir.

Q You had it in your possession? A Yes, sir.

Q And you gave it to me? A Yes.

Q How did that come into your possession?

MR. McDONALD: Objected to.

THE COURT: If it is to contradict the people's testimony I will allow it.

MR. DEUEL: It contradicts the testimony of Charley Rossie. There is something written on that board.

THE COURT: If it contradicts any testimony given by

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the People, I will allow it.

MR. DEUEL: It does, in my opinion.

THE COURT: The jury will determine whether there is any contradiction or not.

MR. DEUEL: I claim there is a contradiction.

Q How did that Defendant's Exhibit B for identification come into your possession? First, did you ever have it in your possession? A Yes, sir.

Q When? A During one day when I was walking in the yard there, in the Tombs yard. Sometimes once a week and sometimes twice a week they walked. I was walking around there one day and I happened to look up towards the House of Detention, on the top floor when I noticed a fellow motioning to me. While this man was motioning to me, Charley Rossie was with me, and he said, "Sam".

Q Never mind about that; was it sent to you by mail or thrown from the window, or how? A While walking through the yard this thing was thrown out of the window to me by Robert Rossie.

Q By Robert Rossie from the House of Detention? A Yes.

Q And was Robert Rossie one of the witnesses here? A Yes.

MR. DEUEL: I offer this in evidence, Defendant's Exhibit B for identification.

MR. McDONALD: I object to the admission of this thing in evidence. It in no way tends to impeach the testimony of Rossie.

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MR. DEUEL: I maintain it does, inasmuch as it is identified as coming from the possession of Rossie, and Rossie denies he threw it. This contains a message to the defendant in this case, from the witness Rossie, concerning this case.

THE COURT: I will allow it to go in evidence.

BY THE COURT:

Q It was just in that condition when you received it? A Yes, but I took the string off it.

(Defendant's Exhibit B for identification now in evidence).

BY MR. DEUEL:

Q This piece of metal was tied to the board like that (indicating)? A Yes. He put it through the window, hit it with his hand, and it shot through to the yard.

BY THE COURT:

Q Over the prison wall, and it came right to your feet?

A Yes, sir.

Q And you picked it up and read the message? A I read the message, what is on there.

(Mr. Deuel reads from Defendant's Exhibit B as follows):

"O.K., don't worry, Sam. I am a bum." There is no signature on it.

MR. DEUEL: That is all.

BY MR. McDONALD:

Q Rossie you say was where? A In the House of Detention, on the top floor.

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Q How many feet away is that from where you were?

A It is across the street.

BY THE COURT:

Q This is a twelve story building? A I don't know how tall it is, but you could see it from the prison yard and he was away on the top floor when he threw that down to me. He put it in the window, which is like wire netting.

BY MR. McDONALD:

Q You could see this wire netting on the top floor? A It comes like a square box, triangular like. He put it through there and slammed it with his hand, and it came right through.

Q You could see all that from the yard of the Tombs?

A Yes, sir.

Q You could see him do that to that instrument, from the inside of the room, of course? A Yes, he was near the window. He put that inside of the window, stuck it half out, and hit it and it came into the Tombsprison yard.

Q And Rossie was across the street? A Absolutely.

Q It went over this big prison wall surrounding the Tombs yard? A Yes, but the House of Detention is about seven or eight stories higher than the wall.

Q It is on the south side of the street; there is a street between the Tombs and the House of Detention building? A Yes.

Q When was it you got that? A In the month of August.

Q Was that after Bianco had seen you? A No, sir, before.

Q About when was it you received this? A The first time

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we went out walking in the yard.

Q When was that? A I went into the Tombs Prison on August 21st, and on the first day we walked in the yard I received that message.

Q About what time was it you received the message? A About half past two in the afternoon.

Q There were Wardens around, or keepers? A Keepers standing up against the wall.

Q And you picked that up? A Yes.

Q And they saw you? A I don't know whether they did.

Q They were right up against the wall? A Yes, the keepers.

Q That is the wall on the south end? A While walking around this side of the yard, towards the further end of the wall, coming about twenty feet away from the wall, over further there is a door on that other side, that is where there were two or three keepers sitting down. I got the note on this side of the yard, and the keepers were over there talking. I don't know whether they seen me pick this up or not, or seen it come in.

Q You kept this thing? A Absolutely.

Q Why did you keep it? A Because I thought it would do me good.

Q Did you draw any conclusion from the note? A No.

Q Didn't you think Rossie meant that he was going to testify in favor of you? A No, sir.

Q What did you think he was sending this in to you for then? A I don't know why he sent it to me.

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Q You are sure it was Rossie sent it? A Yes, Robert Rossie.

Q Was there anybody up in the window besides Rossie?

A When they came down, Robert Rossie was alone at the window.

Q How was he dressed? A He had a shirt on and a light grey suit.

Q Did he have a hat on, too? A No, sir.

Q Did you see his tie? A No, sir, he did not have no collar and tie on at the time.

Q What did you do with that thing after you picked it up? A I unravelled the cord around it, and I read it to Charles Rossie;-- Chafalo was with me at the time I unravelled it.

Q You say he was with you when you picked this up? A Yes.

Q What did you then do with it? A I unravelled the cord around it, and I read it to Charley Young, what was on the piece of wood. I then wound the cord around it and put it back in my coat pocket, inside. Then I kept it always up to now.

Q You say you did not know what Rossie meant by this? A No, sir.

Q Were you worrying? A I was worrying over my brother's death.

Q You were not worrying over the fact that you were charged with attempted murder? A No, sir, because I am innocent of it.

Q That did not cause you any worry? A No, sir.

Q What did your brother work at? A He was working in a garage. He used to go to work about ten p.m.

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Q For whom? A I don't know the name of the garage..

Q What was he, just a washer? A He used to clean Mayor Mitchel's car.

Q He is the man that you say used to contribute to your support while you were living in 46th street? A He gave me money as a loan. I asked him to loan me some money.

Q He was the man that was loaning you money, while you were in 46th street, to pay your expenses? A Not exactly all my expenses, for I had money of my own when I went to 46th street.

C A R R I E C A R R E T T O , of 2843 West 16th street, Coney Island, a witness sworn on behalf of the defendant, testified as follows:

DIRECT EXAMINATION BY MR. DEUEL:

Q Mrs. Carretto, you are running a restaurant and banquet hall down at Coney Island? A Yes, sir.

Q Did you have a banquet there Monday, August 30th, 1917?

A Yes, sir.

Q You superintended the arrangements there that evening and was there all through the evening that the banquetters were there? A Yes, sir.

Q I ask you whether or not this defendant Sam Sacco was there that night? A Yes, sir.

Q You remember that he was there, do you? A Oh, yes.

MR. DEUEL: Your witness.

CROSS EXAMINATION BY MR. McDONALD:

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Q Where is your place of business? A 2843 West 16th street Coney Island.

Q You run it there with your husband? A Yes, sir.

Q Your husband also manages the place? A Yes, sir.

Q Was he managing it that night? A My husband, yes.

Q What were you doing? A I was attending to the place, waited at the tables.

Q Was there any special banquet there that night? A Yes.

Q What was it? A It was a banquet. A fellow by the name of Michael Grimaldi run it.

Q What day of the week was it? A Monday.

Q Are you sure? A Yes.

Q Are you sure it was not Sunday? A No,, it was a Monday night.

Q You say you saw Sacco there? A Yes.

Q Do you know Sacco? A If I seen him I know him.

Q Did you know him before that night? A No, sir.

Q Was there any reason why you paid particular attention to Sacco? A No, the place was crowded.

Q About how many were there? A About thirty or forty people; I don't know exactly.

Q All men? A Yes, sir.

Q No women? A No.

Q You were just serving the guests around? A Yes, looking around.

Q You did not have any quarrel with Sacco that night? A No.

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Q There was no quarrel at all in the entire room? A No.

Q Everything going along nice and gently? A Yes, sir.

Q You just served the stuff around? A Yes, sir.

Q That is about all you did? A Yes.

Q You were not talking to any of the guests at all? A No.

Q What makes you so clear that you saw Sacco? A Because I waited on him.

Q Did you wait on any others? A No, I do not wait on tables; only the place was crowded that night and I had to help with them.

Q You waited on Sacco? A Yes.

Q Was he sitting at a table alone? A No, I brought him in. The way I met Sacco, I had to go outside to look at the time, because I left my dishwasher off at nine o'clock. I went out to look at the time. It was a quarter to nine, so I met this fellow outside of the door. My place has all the five doors open. I seen him looking around so I went out and I asked him "Who are you looking for?" He said, "Is there any banquet held here to-night?" I said, "Yes, walk right in." I seen my waiters were very busy and I brought him to a table. There were two men sitting at the table, one Jimmie Costaldo and Tony Terentino. I made him sit there, and I went into the kitchen and got what was coming to him.

Q Did he tell you his name was Sacco? A No, one of the fellows said, "Shake hands with him", and he said, "Hello Sam". That was all I heard.

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Q When were you subpoenaed? A I was not subpoenaed. His sister came around in about four or five days, I don't know how many days exactly, and she asked me if I remember her brother.

Q When was it this sister of his came? A I don't remember exactly, about four or five days after the banquet was held in the place. I said, "I don't exactly remember if I am sure, because I had so many people." So she showed me his picture and I said, "Yes, I do."

Q You did not remember him then, did you? A She told me where he was sitting and I waited on him because he was only one of the two parties I had.

BY THE COURT:

Q She showed you his photograph? A Yes, and I remember he was there.

MR. McDONALD: That is all.

MR. DEUEL: Defendant rests.

REBUTTAL.

NATHAN BIRCHELL, JR., of the District Attorney's office, a witness sworn on behalf of the People in rebuttal, testified as follows:

DIRECT EXAMINATION BY MR. McDONALD:

Q Mr. Birchell, you are a stenographer employed in the Homicide Bureau of the District Attorney's office? A I am.

Q How long have you been a stenographer? A Over eleven years.

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MR. McDONALD: Will you concede his ability as a stenographer.

MR. DEUEL: Yes, I know that he is good.

MR. McDONALD: After the defendant concedes that he is a good stenographer, may I proceed to the statement itself?

THE COURT: Yes.

Q Did you take a statement from one Peter Bianca, on the 24th day of September, 1917? A Yes, sir.

Q Where was that statement taken? A In the Homicide Bureau of the District Attorney's office.

Q You took that statement in shorthand? A I did.

Q Did you transcribe those shorthand notes into typewritten form? A Yes, sir.

Q Those questions were asked by Mr. Fitzpatrick, an Assistant District Attorney? A Yes, sir.

Q Did you take down the questions and answers correctly? A I did.

Q And did you transcribe your stenographic notes correctly? A Yes, sir.

Q Have you got the transcribed notes that you took of the statement of Peter Bianca on September 24th, 1917? A I have.

Q Will you please turn to page 6 again, to this question (reading) "What were you doing there" -- read that and read the answer. A (reading) "Q What were you doing there?

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A They were sitting in front of the saloon. They had chairs out there. This Tony he was sitting right at the end and he seen me first, and, excuse me, for talking like this, but he picked up a chair and he says, 'You dirty cocksucker, are you around here again?' And he picked up a chair and wanted to make a swing, and as soon as he picked up the chair and wanted to make a swing I shot him."

MR. DEUEL: I am willing to make a concession, if Mr. McDonald is. I am willing to concede that the word "Tony" was taken down by Mr. Birchell, if the District Attorney will concede that the rest of that statement is correct.

THE COURT: We do not want any concession. The stenographer can testify either from memory or his original notes, or he can swear that that is a correct transcript of his notes.

BY THE COURT:

Q Do you know the difference between Dominick and Tony?

A Yes, sir.

Q Is there any resemblance in the symbol that might mislead you so that you might write Tony for Dominick? A No.

Q And you swear positively that he said Tony? A I do.

Q And you wrote down Tony? A Yes, sir.

MR. McDONALD: That is all.

MR. DEUEL: That is all.

MR. McDONALD: The People rest.

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MR. DEUEL: I move to dismiss, your Honor, on the ground the People have failed to make out a case.

Motion denied and exception taken.

(Mr. Deuel summed up to the jury).

THE COURT: Gentlemen of the jury, we will take a recess now until ten after two. In the meanwhile you will remember the admonition that I have given you, that you must not talk about this case with anyone. You must not discuss it among yourselves. You must not form nor express an opinion as to the guilt or innocence of the defendant. You must wait until you hear all the evidence that is to be given and when the Court submits the case to you, after all has been said, then you will retire and that is the time to decide, and not before that. So keep your minds open until you hear all that has been said and return here at ten minutes after two.

(Recess until 2:10 P.M.)

(Mr. McDonald summed up to the jury.)

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CHARGE TO THE JURY.

THE COURT: Gentlemen of the jury, there are two counts in the indictment in this case; the first charges the defendant with the crime of an attempt to commit the crime of murder in the first degree, ^{or} a second offense. I shall discuss the first count. The second maybbe considered after that without repetition.

It is alleged that in the County of New York, on the 20th of August in the year 1917, the defendant and two others whose names are given, made an assault upon Dominic De Luca wilfully and feloniously and of their malice aforethought and with a deliberate and premeditated design to effect the death of him; that they made this assault with a loaded pistol which they wilfully and feloniously and of their malice aforethought and with a deliberate and premeditated design to effect the death of Dominic De Luca did then and there shoot off and discharge; and that in this way they inflicted a wound upon Dominic De Luca wilfully and feloniously and of their malice aforethought and with the deliberate and premeditated design to effect the death of him. There is no allegation that he died and therefore the charge is not murder but an attempt to commit the crime of murder. You will notice, therefore, the essential elements of the

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charge, - First, that they committed an assault upon De-Luca; Second, that it was committed feloniously, - that is, without legal justification or excuse; and Third, that it was done with intent to kill and with premeditation and deliberation.

Section 1043 of the Penal Law defines homicide as follows:

"Homicide is:-

1. Murder; or,
2. Manslaughter; or,
3. Excusable homicide; or,
4. Justifiable homicide."

Section 1044 defines murder in the first degree:-

"The killing of a human being, unless it is excusable or justifiable, is murder in the first degree when committed,

First, From a deliberate and premeditated design to effect the death of the person killed or of another."

That is the charge that we are concerned with here. The other varieties of homicide, the degrees of homicide or the kinds of homicide, it is unnecessary to call to your attention. As I said before, the defendant is not charged with murder in the first degree, but with an attempt to commit the crime of murder in the first degree, because it is alleged that while he sought to commit

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murder, he failed in the accomplishment of his purpose and therefore was not guilty of the full crime of murder, but of the crime known to the law as an attempt to commit the crime of murder in the first degree. It will therefore be necessary for the People to establish, First, that they made an assault on De Luca; Second, that assault was made with the intent to kill him; and Third, that it was made to carry out a deliberate and premeditated design to kill him.

The words, "Premeditation" and "deliberation", have been often defined in the courts and in one case it was said:

"Under the statute there must be not only intent to kill but there must also be a deliberate and premeditated design to kill. Such design must precede the killing by some appreciable space of time; but the time need not be long. It must be sufficient for some reflection and consideration upon the matter, for the choice to kill or not to kill, and for the formation of a definite purpose to kill. And when the time is sufficient for this it matters not how brief it is. The human mind acts with celerity which it is sometimes impossible to measure, and whether a deliberate and premeditated design to kill was formed must be determined by the jury from all the circumstances of the case."

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As I will explain to you later, you are the judges of the facts and facts can only be proved by witnesses. It is your duty to inquire whether the testimony in this case has satisfied you. First, that the defendant was concerned in the shooting of De Luca, and Second, whether the shooting was done with the intent to kill him, and lastly whether there was not only an intent to kill, but that the intent was the result of a deliberate and premeditated design. If all those things are found by you beyond a reasonable doubt, then you may find the defendant guilty of the crime charged in the first count of the indictment.

The indictment contains an allegation that the defendant had heretofore been convicted of another crime. It is conceded that the defendant was convicted and sentenced for the commission of that crime. Under our law it is within the power of the Grand Jury under such circumstances to indict a defendant as a second offense or to return an indictment as a second offense. Therefore if you find that he was guilty of the crime of an attempt to commit murder in the first degree, since he admits the allegation as to his previous conviction, you may find him guilty as a second offense.

The presumption in a criminal trial is that the defendant is innocent. His innocence is taken for grant-

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ed and he is not required to establish his own innocence in the first place. The opposite theory, known as the presumption of innocence is the basis of the American law, and the burden is on the People represented by the District Attorney to present to the jury the evidence to support their contention that he is not innocent, but that he is guilty and the rule is that the jurors after they have heard all the evidence must weigh it carefully, and if they are convinced by that evidence, viewed in the light of the law as the Court states it, - I say, if they are convinced legally beyond a reasonable doubt that the charge is true and that the charge has been supported, then they must find the defendant guilty, otherwise they must acquit him. If the evidence for any reason fails to support the contention that the defendant is guilty, if it fails to overcome the presumption of innocence, to satisfy you of his guilt beyond a reasonable doubt, you must acquit him.

It becomes necessary to define then what is meant by reasonable doubt. You know that doubt means uncertainty. A reasonable doubt means a doubt based on reason and that reason must be found in the evidence in the case, or it might be based on the lack of evidence in the case. A reasonable doubt is not based on a desire to avoid doing your duty if that duty should be disagree-

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able. It is not based on prejudice against the law or against any individual. It is not based on sympathy; it is not based on a caprice or a whim. When an honest man on the jury makes up his mind to do his duty, to render an honest verdict: - I say, when an honest man makes up his mind to do his duty, to disregard any question except what his duty requires him to do, to lay aside all prejudice and sympathy, to be absolutely calm, cool and neutral and impartial, and yet finds that he is unable to say that his mind is convinced to a moral certainty by the evidence that the defendant is guilty, then his mind is in a state of reasonable doubt. But if such an honest juror feels convinced to a moral certainty from the evidence that the defendant is guilty, that is all that the law requires. That is what is meant by proof beyond a reasonable doubt. You will notice that I used the term "moral certainty." Absolute certainty is never found outside of science and mathematics. We know that two and two make four; but the People are not obliged to prove their case as clearly as that. All that the law requires is that the mind of an honest juror should be convinced to what is known as a moral certainty, should be thoroughly convinced not only by a preponderance of evidence, but by such evidence as to remove from his mind the reasonable doubt or the doubt which an honest man might be justified in feeling or having under all the facts

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and circumstances of the case. If you have a reasonable doubt on any of the elements of this case you must find the defendant not guilty of the crime charged in the first count of the indictment. You must be satisfied that he was present there, that he was aiding or abetting the others who did the shooting, or that he was actually shooting, as I will explain to you later, -- it is immaterial which, -- or that he was concerned in the crime as a principal or agent, that he had advised or procured the shooting to be done; if you have a reasonable doubt on that you will acquit him of all the counts of the indictment. If you have no reasonable doubt, if you are convinced beyond a reasonable doubt that he was present or that he aided or abetted in the shooting and you have a reasonable doubt as to whether he had any premeditated or deliberate design to kill this complaining witness, then you cannot find him guilty of the first count, and you must take up the second count. The second count charges assault in the first degree. The count is, briefly, that he intended to kill de Luca, and for that purpose assaulted him with a weapon, he and the others, Bianca and Young. That is the only difference between the first and the second count. The first count charges premeditation and deliberation which I have already called to your attention, and the second,

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intent to kill. The word, "Intent" means the end sought. What did these men have in mind when they went up there and shot De Luca; what end did they seek. If you find that they sought his death, that they went there to kill him, that is what is meant by "intent", the end sought. Under our law, if a man intends to kill another and assails him with a weapon, loaded fire-arm or any other weapon capable of producing death, even if it does not succeed in causing death, that is assault in the first degree.

Assault in the first degree differs from attempt to commit murder merely in the absence of premeditation and deliberation.

Section 240 of the Penal Law is as follows:-

"A person who, with an intent to kill a human being or to commit a felony upon the person or the property of the one assaulted or of another, assails another with a loaded fire-arm or any other deadly weapon or by any other means of force likely to produce death -- is guilty of assault in the first degree."

First, does the evidence satisfy you that there was any shooting there at all. Secondly, does it satisfy you as to the identity of the assailants, the person who did the shooting, and thirdly, does it satisfy you as to their intent?

Intent must be proved as a fact. It has been

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said by the courts that intent is the operation of a man's mind; it is locked up in his heart and the only way to prove it is by showing its visible manifestation; You can see a pistol; you can hear the report or see the flash of a gun, but intent is locked up in a man's mind. There is a principle of law or rather a rule of evidence that you can infer a man's intent from his acts. You may find that a man intended the reasonable and necessary and ordinary consequences of his acts. In other words, if a man takes a loaded fire-arm and stands a few feet from another and discharges that firearm and the bullet enters his body and kills him, why that is sufficient evidence of an intent to kill.

So here, the People are not obliged to prove that these men came up there and said, "We are going to kill you". You may find their intent from their acts. The act of shooting a man at close range in the way that has been testified to would justify the inference that they intended to kill. If the evidence does not satisfy you, however, that there was an intent to kill - that there was an intent as Bianco said, - to injure him, to hurt him, why then the crime would be assault in the second degree, not assault in the first degree. So that under this indictment you may find this defendant guilty of the crime of an attempt to commit the crime of murder in the first degree as a second

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offense, as charged in the indictment. or guilty of the
crime of assault in the first degree as a second offense;
not an attempt to commit an assault because if one dis-
charges a weapon at another, whether he hits him or not,
it is a crime. it is assault; either assault in the
first degree or assault in the second degree, just as
it was accompanied by an intent to kill or merely an
intent to injure.

You understand that the jurors are the sole and
exclusive judges of the facts. It is the duty of the
Court to instruct you in the law and to state to you the
legal principles which are applicable to this case and
which should guide you in your decision. You must take
the law from the Court. The definitions of homicide, at-
tempted murder, assault, the burden of the People, and the
rights of the defendant, you must take without question.
The facts are only to be found by you and they can only
be proved in one way and that is by the statements of wit-
nesses (and the exhibits admitted in evidence). Statements
of counsel on either side or comments by the Court have
no weight as evidence, and they are not to be considered
by you in any way. If counsel in summing up have drawn
conclusions from the evidence that seem to you proper
and logical, why you should pay respectful heed to them,
but if the deductions of counsel seem to you to be un-

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founded, then you must ignore them and be guided by your own views of the evidence. I mention the words credibility of witnesses; since facts can only be proved by witnesses and since witnesses may differ, it is for the jury to determine whom they will believe. You must decide how much of the testimony of each and every witness you will believe. The word, "credible," means worthy of belief. A thing is credible when it ought to be believed, when it commends itself to your reason and judgment; and while there are no rigid rules to guide you in the discharge of your duty, you should employ the common and usual methods and you should be guided by reason and experience in determining the question of credibility. If you were the credit man of a great business corporation and an application ^{were made} for trust or credit, you would investigate the applicant in order to decide how much credit you would give him; and so here, you may consider the manner of the witness on the stand, the character of the witness as disclosed on cross-examination, the interest of the witness in the controversy, if any, the relationship of the witness to the case, the motive which may or may not exist and may impel or lead a witness to tell what is not true. Even if you find that a witness has an interest in the controversy or a motive which may have influenced him or her to testify falsely, it would be grossly unfair to disbelieve the testimony of the witness solely on

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that ground, because a witness may tell the truth, notwithstanding the existence of a motive to do otherwise. It is for you to decide whether it has been shown that any witness has such motive. One of the proper functions of cross-examination is to show that a witness is biased or prejudiced, and has a motive to testify falsely. So it may be shown that a witness has previously been convicted of a crime, or has committed vicious or immoral acts. In other words, every witness that takes the stand makes an appeal to you for credence, and you must weigh that appeal carefully. You must consider the character of the person who gives the testimony, as disclosed by the evidence, and taking all those elements into account, decide on his or her credibility and then after having selected the testimony that you regard as credible, why you weigh that very carefully and honestly. You must be calm, cool and neutral. You are not retained on one side of the other. You are not partisans. You are to be absolutely impartial and weigh that evidence carefully and coolly and then if you find that the law has been violated, that it has been established beyond a reasonable doubt that the defendant has committed a crime, you must fix which crime it is, an attempt to commit the crime of murder in the first degree, as charged in the first count or assault in the first degree or assault in the second degree, under the second count of the indictment.

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I realize at this time it may be a great hardship on you to serve as jurors. You are compelled to abandon your own private affairs for the time being and that often involves very great sacrifice on the part of a juror. The welfare of the State depends on the faithful performance of jury duty just as much as the existence, the safety and the honor of the nation depend on the loyalty and bravery of our soldiers in time of war. The country is at war and our soldiers must defend us from the acts of those who would destroy us. The law must be respected. Every one must be secure in the enjoyment of life, liberty and property, and such security depends altogether on the faithful administration of the law.

The Judge has a very simple function to perform, in a criminal trial. He simply rules on the legal questions that arise and sees that the trial is conducted according to law.

The District Attorney has done his duty to the People in this case. Counsel for the defendant is entitled to the thanks of the Court for the manner in which he has discharged his duty. He has given to his client all the service that skill and ability could render. It now remains for you to do your duty. You must determine to be absolutely honest men and to be faithful to the trust that is imposed upon you. It is a very great responsi-

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bility and the law will be vindicated by an honest verdict. You must banish every thought from your minds but the desire to do your duty. You must not consider the consequence of your verdict. It is no concern of yours what happens to the defendant. if he is convicted; because he should be pronounced guilty by you if he has been proved guilty to your satisfaction; and if he has not been proved guilty to your satisfaction, it is equally your duty to say so and to render a verdict of not guilty.

The question is not as to the character of the defendant except on that one point of his credibility. Whether a man has been convicted ten times heretofore is no proof whatever that he is guilty of the charge contained in this indictment. You understand that. You may consider all that testimony on the question of his credibility. The law is that a man who has been convicted of crime, a man who lives with a prostitute, a man who does disgraceful acts, criminal acts, may be questioned about such matters, if he becomes a witness. If the defendant had not taken the stand as a witness no reference would have been permitted to them, except for the purpose of proving the conviction mentioned in the indictment, so that he may be convicted as a second offense. I say this because the question is not what kind of a character he has. That is not in issue. He has been

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convicted of crime heretofore, and therefore under this indictment, if he is proven guilty, why you must find him guilty as a second offense. The proof that the law requires must relate to the acts done at the corner of 110th Street and Second Avenue on that night. If there was an assault committed on De Luca there with intent to kill him and that intent was the result of a deliberate and premeditated design to kill him and the intent was carried out by the discharge of a loaded pistol at De Luca and the others there, or if there was an attempt to kill any one there in De Luca's party and De Luca was shot, -- I say if there was an attempt to murder anyone who was sitting there with De Luca that night, and this defendant was concerned in it, whether he did the shooting or not, if he aided or abetted, counseled or advised in it, he is guilty under the first count of the indictment, whether he was present at the shooting or not. You will remember that in the Becker case, although the defendant was not present at the shooting, the law upheld his conviction because it was charged and proved to the satisfaction of the jury, that he had instigated others to commit the crime. So here, whether this defendant did the shooting or not; if he aided or abetted or advised the others to do it, he is guilty of the crime. Justifiable homicide or justifiable assault could be only done

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in self-defense. There is an absolute lack of evidence of self-defense in this case. The defendant has not claimed it. He said he was not there. If he was not there on that night, if you have a reasonable doubt as to his whereabouts at the time of the shooting, you must acquit him under the evidence in this case; but if you have no reasonable doubt that he was present and that he was concerned in the shooting and that there was an attempt to kill, why then he may be found guilty either under the first or second count; or if there was an assault made without any intent to kill the crime would be assault in the second degree. I hope I have made myself clear. Weigh the evidence, what actually happened that night, If you are satisfied beyond a reasonable doubt that there was an attempt made to kill De Luca, accompanied by premeditation and deliberation or intent to kill, you may find the defendant guilty; if he was concerned in the crime, if he has been connected with that by the evidence. If you have a reasonable doubt as to whether there was any premeditation or deliberation, - as to whether this was a sudden quarrel that came up there, that the meeting was entirely unexpected, that the shooting occurred without deliberation or premeditation, it would then be assault in the first degree or second degree if you think the shooting was not done with intent to kill, if the intent was merely

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to injure these persons sitting there, - the crime would be assault in the second degree. We are not concerned with the motive of anyone who shoots up another in the street, - that does not concern us; the question is, what was done? Was there an attempt to murder there? Was there assault in the first degree or assault in the second degree? Was the defendant concerned in it? Are those facts established beyond a reasonable doubt by the evidence? Weigh the evidence fairly, calmly, and impartially and pronounce an honest verdict and then you will be doing your duty, whether it be guilty or not guilty. If it be an honest verdict, that is a vindication of the law.

Have you any requests, Mr. Duel:

MR. DUEL: Just one request, your Honor, and that is that you instruct the jury if they disbelieve any material facts stated by one of the witnesses, they may disregard all the story of that witness.

THE COURT: Well, I cannot charge that, Mr. Duel. The rule is that if you believe that any witness committed perjury, you may disregard all the testimony of such witness, although you are not obliged to. As I told you, you are the sole judges of the credibility of the witness. You must say what witness you are going to believe. When a witness takes the stand, if he deliberately and knowingly testifies falsely on a material point in the case, he

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is guilty of another great crime known as perjury. If the defendant was not there and he was not seen there by the People's witnesses and yet all those who said that he was there, if they know that he was not there, if they deliberately and knowingly testified falsely on that point, they would be guilty of perjury and you could disregard all their testimony. And so, when the defendant took the stand if he was present there and deliberately and knowingly said that he was not there, he was guilty of perjury and you may disregard all of his testimony. The same rules for testing the credibility of the witnesses apply to all the witnesses on both sides. There is not one special rule for the People's witnesses and a different rule for the Defendant and his witnesses. Do not decide the case from one isolated piece of evidence. Take all the evidence on both sides and weigh it calmly and coolly as men conscious of your great responsibility, and then if you are firmly impressed as I say to a moral certainty that the charge has been proved, say so by a verdict of guilty and fix the crime. If you have a reasonable doubt of his guilt of any crime, then acquit him. But if a witness through inadvertance should make a misstatement, why there would not be any reason for disregarding all the testimony of such witness. A witness might say that a thing was black when it was blue or white, and

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if he believed it was black when he said it was black there is no moral turpitude in that. But of course, if you do not agree with his statement, if you think he was mistaken why you will not be influenced by any testimony unless you believe to to be true.

THE COURT: Is that satisfactory, Mr. Duel?

MR. DUEL: That covers it very nicely, thank you.

THE COURT: Mr. McDonald, is there anything?

MR. McDONALD: Nothing, your Honor.

THE COURT: Once more your verdict should be either guilty of an attempt to commit the crime of murder in the first degree as a second offense, or of assault in the first degree as a second offense, or assault in the second degree as a second offense, or not guilty. I do not want two verdicts. Only one verdict for one crime, or not guilty.

The jury retire at 3:45 P. M.

The jury return at 4:50 P. M.

THE CLERK OF THE COURT: Gentlemen of the jury, have you found a verdict?

THE FOREMAN. No sir.

THE COURT: I have sent for the jury because I received this communication from the Foreman (reading), "Hon. Judge Mulqueen; Please send in and have read to us testimony of Rossie relative to raincoats on auto-

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mobile trip. Foreman."

I cannot send the testimony in to the jury. Any testimony you wish to have read, we will read it in open Court.

(The stenographer reads the testimony requested by the jury consisting of that contained on pages 35 to 38).

THE FOREMAN: What time was it that this automobile went uptown?

THE COURT: I do not think the hour was mentioned.

MR. DUEL: There is no time mentioned in that testimony.

MR. McDONALD: No.

THE COURT: If there is any further testimony you want read or any further instructions from the Court on the law, it will be given to you otherwise you may retire.

THE FOREMAN: No, I don't think so.

THE COURT: Then you may retire again.

JURY NO. 8: Your Honor, was this automobile trip a long time before the night of the murder?

MR. McDONALD: Three weeks, the testimony says.

MR. DUEL: Yes, that was before, three weeks before.

The jury retire at 5 P.M.

The jury return at 10:40 P. M.

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THE CLERK OF THE COURT: Gentlemen of the jury, 140
have you agreed upon the verdict?

THE FOREMAN: We have.

THE CLERK OF THE COURT: How do you say, have you
found the defendant at the bar guilty or not guilty?

THE FOREMAN: Guilty, as charged in the second count.

THE CLERK OF THE COURT: Harken unto your verdict
as it stands recorded. You say you find the defendant
guilty as charged in the second count of the indictment,
so say you all?

THE COURT: Guilty of what?

THE FOREMAN: Will you please read the second count?

THE CLERK OF THE COURT: Guilty of assault in the
first degree as a second offense, as charged in the
second count of the indictment.

THE FOREMAN: We do.

The defendant's pedigree is taken.

THE COURT: If defendant wishes I am ready to
impose sentence now.

MR. DUEL: First I desire to make a motion on the
record.

THE COURT: You can reserve your motions or make
them now if sentence is to be imposed now.

MR. DUEL: I make the motion that the verdict that
has been rendered be set aside as against the weight of
evidence and on account of the exceptions taken at the

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trial.

THE COURT: I will deny your motion. I think the verdict is amply warranted by the evidence.

MR. DUEL: Exception;

THE COURT: If the defendant wishes, I am wready to impose sentence now.

MR .DUEL: The defendant is ready for sentence now.

THE COURT: I am going to send him to State's prison for twenty years, as a warning to others. I give him this sentence not because I have any feeling of vindictiveness against him, but to let him know that in the City of New York we want the law to prevail, and those who do not like that may leave New York and we wish them Godspeed.

THE CLERK OF THE COURT: Your Honor, I did not make formal statement to the defendant.

THE CLERK OF THE COURT: Sam Sacco, what have you now to say why judgment should not now be pronounced against you according to law?

MR. DUEL: Nothing further; your Honor has passed sentence.

THE COURT: Well, I shall pass it again; I will re-sentence him.

MR. DUEL: No, once is sufficient, your Honor.

THE COURT: I sentence you to State's prison for twenty years, Sacco.

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MR. DUEL: Is that the maximum or minimum sentence?

THE COURT: That is the maximum sentence.

THE DEFENDANT: (In person) What was I convicted of?

THE COURT: You were convicted of the crime of assault in the first degree as a second offense. The maximum punishment for your crime as a first offense is ten years, and for the second offense the law provides that you may receive double the maximum. You will be taken to State's prison, and under the new dispensation you can get out in about eight years, if you behave yourself.

MR. DUEL: Will your Honor grant a stay of a week?

THE COURT: Yes, I grant one week's stay, or he may have a longer stay.

MR. DUEL: One week is sufficient, your Honor.

I hereby certify that the foregoing
is a correct transcript of the
proceedings had in the trial of
People v. Sam Sacco.

Ludwig
Official Stenographer

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