

stepped right in the saloon, he showed his arm to my father and he went to the drug store.

Q How do you know he showed his arm to your father? A Because I saw him get up and walk in.

Q Did you see your father? A I did not see my father.

Q Then you don't know whether he showed his arm to your father or not? A Well, he went to the counter and showed it to my father.

Q Did you see him do that? A No, I saw him go in.

Q Then you don't know, do you? A When he went in there?

Q But you did not see him do it? A No.

BY THE COURT:

Q You could not see into the store, could you? A I was outside.

THE COURT: Please answer the question put to you.

You said you could not see.

BY MR. MERCHANT:

Q As soon as he was shot, did he get right up and walk in? A Yes.

Q Right away? A Yes.

Q How long was he in there? A A few seconds.

Q How long was he in there? A He was not in there very long, he just showed his arm and walked out.

Q How long was he in there, five or ten minutes, would you say? A No, he just walked in and went out again.

Q Immediately after you saw Charlie Young, did you say

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and Sam Sacco and the little short fellow fire the shot, what did they do? A After they shot, they ran away again.

Q Where did they run? A 110th Street and First Avenue.

Q Towards First Avenue? A They turned the corner again and went away.

Q Did you stay just where you were in front of your home? A Yes, I got up.

Q You did not move; you were watching then, what was going on? A Yes.

Q After they ran away, did all three of them run away together? A Yes, they did.

Q Did they throw their revolvers away before they ran? A I don't know.

Q When did you see them again running back? A I did not see them come running back.

Q Did you see Dominick come out of the saloon? A Yes, sir.

Q Did you see him as he came out of the saloon and before he went to the drug store, fall? A I don't know. I did not see that.

Q Did you see him fall before he went into the saloon? A I don't know.

Q He did not fall after he was shot? A No, he did not.

Q He did not lie on the sidewalk after he was shot, did he? A No, I did not see him.

Q Well, you were watching him all the time? A Yes, sir.

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Q And you say you saw him get up and go into the saloon?

A Yes.

Q Then he did not fall after he was shot. He did not fall to the sidewalk and lie there? A No, he did not.

Q You are very sure of that? A Yes.

Q Now, you sat there in front of your apartment house and saw what was going on? A Yes, sir.

Q Is that correct? A Yes, sir.

Q You saw Dominick come out of the saloon? A Yes, sir.

Q How did he go to the drug store; did he go alone?

A Yes, he went alone. He walked over to the drug store.

Q All alone? A Yes, sir.

Q And you did not see Sam Sacco come back? A No.

Q You were watching all the time, looking down 110th Street and at the saloon and at the drug store weren't you?

A Yes, sir.

Q And you did not see Charlie Young come back did you?

A No, I did not, but when --

Q Did you see the little short fellow come back? A No, I did not.

Q What did you next see after you saw Dominick walk into the drug store? A When I saw Dominick walk into the drug store, I watched awhile and I saw everybody go in.

Q Wait; he said he was alone. What did you next see after you saw Dominick walk into the drug store? A Then I went over to the drug store. When I saw my brother go in, I

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went over.

Q Did you go over before you saw everybody go in or after?

A After I saw everybody go in.

Q Who was everybody that went in? A Everybody; all the people -- all around the drug store. There was a big crowd there.

Q Then you went in? A Yes.

Q How long did you say it was after you saw the three men come up 110th Street behind the sign and when you went into the drug store? A When I went in the drug store, I was in the drug store and there was such a crowd around my brother that I could not watch him, so I looked outside the windows.

Q How do you mean you were looking outside the windows?

A From in the drug store.

Q You mean you were outside the drug store looking in the windows? A I was in the drug store looking out of the door window.

Q Looking out of the windows? A The windows of the door.

Q Was your brother between you and the windows of the door? A No, my brother was sitting on a chair.

Q He was back of you? A Yes, in the back; I could not see him.

Q Why were you looking toward the windows, toward the door? A Because I was left there by myself and I was looking outside.

Q Why weren't you looking over to where your brother was? A I could not see him. There was everybody around him, a

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big crowd.

Q The reason you were looking through the windows of the door was that you were left there by yourself? A Yes.

Q How many people would you say were in the drug store while you were looking out of the windows of the door? A I don't know, there was a big crowd.

Q What did you see next? A Well, there was more shooting going on.

Q No, what did you see next? A I was looking outside to the street there and I saw Charlie Young and Sam Sacco, they were shooting. That is what I saw, and there was a big crowd outside.

Q Did the crowd do anything? A No, it was just moving back.

Q Whom were they shooting at? A I don't know who they were shooting at.

Q Could you see in what direction they were shooting?
A Right outside of the drug store, in the gutter.

Q Were they shooting up or down the avenue? A They were shooting there with their guns in their hands. I don't know where they wanted to shoot.

Q How long was that after you first saw them behind the sign? A Right after I went to the drug store. That was about five minutes after.

Q About five minutes after the first shooting; but you didn't see them come running back up 110th Street? A No, I

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didn't, I was in the drug store then.

Q How far did you see them run when you saw them running away? A I saw them turning the corner but I was not looking after them, because I was looking at my brother, to see whether anybody got hurt or not.

Q When did you first talk over what you saw that night and with whom? A I did not talk it over with nobody.

Q Have you talked it over with anybody since that night? A No.

Q You have not talked it over with your brother? A With nobody; Well, I didn't see my brother at all since then.

Q You have not seen them until today? A No, because my brother was in the hospital all the while, and my other brother was arrested.

Q You have not seen Dominick until today? A Not since today.

Q Since the night he was shot? A I did not see him for about three weeks.

Q You did not talk it over with him then? A No.

Q Did you talk it over with your other brother? A My other brother is not here. He is arrested.

Q Did you talk it over with your father? A No.

Q You live with your father? A Yes.

Q Did you talk it over with any of the neighbors up there who saw it? A No.

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Q You have not mentioned it to anybody? A No.

Q Were you a witness on the trial of Sam Sacco? A Yes, sir.

Q Did you see Dominick then? A I did.

Q What did this little short fellow look like? A I don't know what he looked like. I could not describe him.

Q Miss DeLuca, how do you know he was with your brother Dominick in front of the saloon that night. It was not light enough to distinguish them from where you were sitting, was it?

A Sure, you can see them. It is very light.

Q You could see those people that you knew; well, whom do you say was there? A Robert Ross and my other brother Tony DeLuca and Dan Fortunash and my brother Dominick was there too.

Q Which side of the street did Sacco, Young and the unknown man come towards the sign at 110th Street? A Right on the corner, the same side.

Q Around the corner; that is when you saw them first?

A Yes.

Q These two times you have spoken of, once when you were passing the store and one other time, were the only times you ever saw Charlie Young until the night of the shooting? A Yes, sir.

Q Now, just one or two other matters I want to get a little clear. You saw the three men and you saw them all draw their revolvers? A Yes, sir.

Q And then two or three minutes later, you saw them shoot?

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A Yes, sir.

Q And when you saw them draw their revolvers, did you make some outcry or call out to the man in front of the saloon?

A No.

Q You were just watching them? A Yes, sir.

Q And when you saw them draw their revolvers didn't you think they might be going to shoot somebody? A I saw them shoot into the fellows and my brother, but I did not make a sound.

Q You did not warn your brother after you saw them draw their revolvers and before they shot? A Yes.

Q You had two or three minutes to do it in? A (No answer).

THE COURT: The Jury will determine how much time she had to do that.

BY THE COURT:

Q You said your house was on the other side of the street where you lived? A Yes, sir.

Q And opposite the saloon? A Yes, sir.

Q Second Avenue is a wide Avenue? A Yes, it is right across the street from the saloon.

Q There is an elevated railroad on Second Avenue, isn't there? A Yes, sir.

Q That is between where you were standing and where the shooting took place? A Yes.

BY MR. MERCHANT:

Q Where was this automobile that you saw that night?

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A 118th and 119th Street and Third Avenue.

Q I mean the night of the shooting? A That was Second and First Avenue, right near the church.

Q What street? A About half way.

Q What street was it on? A 110th Street.

Q It was on 110th Street? A Yes, sir.

Q And between Second and First Avenue? A Second and First Avenue.

Q When did you first see the automobile? A When I ran over to the drug store.

Q How far was it from the corner? A About half a block.

Q You could not see who was in it, could you? A No, sir.

Q You don't know whether it had anything to do with Sam Sacco, do you? A No, sir.

Q What made you notice the automobile? A When I went over to the drug store I stopped near the car tracks and I looked down, because I saw the fellows come from that direction, and I looked down and I saw the automobile and I just went over to the drug store.

Q You know Rossie, don't you? A Yes.

Q What is his name, Robert Rossie? A Robert Rossie.

Q Did he tell you he saw the automobile up there too?

A Well, I didn't speak to him at all.

Q You did not discuss it with him? A No, sir.

Q Did you say you saw people in the automobile when you

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looked down at it? A Yes, sir.

MR. MERCHANT: That is all.

MR. McDONALD: That is all.

WILLIAM J. ENRIGHT, an Officer of the Third Branch Detective Bureau, called as a witness on behalf of the People, testified as follows:

DIRECT EXAMINATION BY MR. McDONALD:

Q You are a member of the Police Force of the City of New York and you were such on the 20th of August, 1917? A Yes, sir.

Q Did you visit the premises on the southeast corner of 110th Street and Second Avenue? A Yes, sir.

Q About what time of the day or night? A Well, I should say around between nine and ten o'clock in the evening.

Q I show you this chair, ^{People's} Exhibit 3 for identification and I ask you if you saw that there that night? A I did.

Q Is it now in the same condition as the time you saw it? A Yes, sir.

Q You brought that chair down to the Property Clerk of the District Attorney's office? A Yes, sir.

Q And there left it? A Yes, sir.

MR. McDONALD: I now offer it in evidence.

MR. MERCHANT: Objected to as incompetent, irrelevant and immaterial and that there is no evidence of injury to the chair caused by the bullet.

THE COURT: Objection sustained. I do not see why

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you have the chair here.

MR. McDONALD: Except this man was sitting on it, and it shows the bullet came from that side, as shown by the chair.

THE COURT: Whether he was sitting down or standing up is not material; whether they shot him or not is the question and if they did that as result of premeditation and deliberation, to kill, it was an attempt to commit murder. Was there any shooting there or not, and who did the shooting, and what was the intent?

Q Do you know Daniel Fortunash? A I do.

Q Did you see him on the 29th day of August, 1917, when he appeared before the Grand Jury? A I did.

Q Have you seen him since that time? A I did not.

Q Did you know where he lived? A 2166 Second Avenue.

Q Have you visited his place of residence? A Several times.

Q Have you been able to find him? A No, sir.

Q Have you had any conversations with anybody in his home? A Yes.

Q Did she say who she was? A Yes.

Q Who was that? A His sister.

Q What did she say about her brother Daniel Fortunash?

MR. MERCHANT: I object as incompetent, irrelevant and immaterial.

MR. McDONALD: I want to show we have been unable to find him. We want to account for the failure

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to find the witness.

THE COURT: The defendant brought that out. He said he had been looking for him and tried to find him.

Q How many times did you visit his home? A Seven or eight times.

BY THE COURT:

Q You have not been able to serve him with a subpoena?

A No, sir.

Q And you have a subpoena for him, from the people?

A Yes.

MR. McDONALD: That is all.

CROSS EXAMINATION BY MR. MERCHANT:

Q Since August 20th, Fortunash has been indicted, has he not? A Yes, sir.

Q Do you know whether or not his bail has been forfeited? A I don't know.

THE COURT: I will exclude that as immaterial. If it were material that could be shown by the records of the court.

MR. MERCHANT: That is all.

MR. McDONALD: Will you concede the prior conviction of the defendant?

MR. MERCHANT: I will concede it.

MR. McDONALD: May I read into the record the prior conviction of this defendant as it has been entered?

THE COURT: Yes.

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MR. McDONALD: Well, the defendant concedes --

BY THE COURT:

Q Is that true in the indictment, that you were convicted before of a crime?

THE DEFENDANT: Yes, sir, it is true.

MR. McDONARDL: The defendant admits that he has heretofore been convicted , on the 7th day of May, 1912, before the Hon. Thomas C. O'Sullivan, a Judge of the Court of General Sessions in and for the ^{County} ~~City~~ of New York,-- the said Charles Rossie Chiafalo was in due form convicted of a felony to wit, of the crime of criminally carrying a firearm concealed upon his person, and on such conviction was sentenced by the Court to a term of three years in the state prison.

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B E R N A R D J. D E V A N E Y, an officer of the Second Branch Detective Bureau, called as a witness in behalf of the People, being duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. McDONALD:

Q You are an officer of the Police Force of the City of New York and you were such on the 20th day of August, 1917?

A I was.

Q You are attached to what branch? A Second Branch Detective Bureau.

Q What is your rank? A Acting Detective Sergeant.

Q Did you see the defendant Charles Young at any time on the 20th day of August, 1917? A About 12.30 on August 21st.

Q You mean midnight? A Yes sir.

Q Go ahead; where did you see him? A 46th Street between Broadway and 6th Avenue.

Q Was he with anybody? A He was.

Q With whom was he? A Three others.

Q What did you do? A I placed them under arrest and took them to the Second Branch Detective Bureau and from there to the Third Branch Detective Bureau.

Q Did you after that get an automobile? A I did.

Q Do you know whose automobile that was?

Objected to. Question withdrawn.

Q Then you took them to the Third Branch? A Yes sir.

MR. McDONALD: That is all.

MR. MERCHANT: I may want this officer as a witness

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for myself on the defense, and I ask that he remain in court, your Honor. I have no cross-examination but I may want him as a witness.

THE COURT: Well, you may remain here, Officer; that is, remain within call. You do not have to remain in the room.

MR. McDONALD: Your Honor, may this officer, DeVaney, go back to the Grand Jury room?

THE COURT: Why certainly, as long as he is within call so that we know where he is when we want him.

MR. McDONALD: The People rest.

MR. MERCHANT: If the Court please, I have here the original subpoena for Ludwig L. Cohen, a doctor, and also a copy. He is evidently avoiding service. His address is 75 West 47th Street. I ask that a police officer be delegated to get that man.

THE COURT: If you do not need Officer Enright any more, you can send Officer Enright to get him, or get some officer. I understand he was not subpoenaed for to-day.

MR. MERCHANT: No sir, but we have been endeavoring to subpoena him ever since Friday.

MR. MERCHANT: If the Court please, I move to strike out all evidence as to the alleged shooting at the drug-store, all evidence as to the alleged conversation had in the automobile going to the Bronx between DeLuca, I think it was, and this defendant and Sam Sacco, - all evidence

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subsequent to the immediate alleged shooting outside of the saloon, and the immediate surrounding circumstances, the res gestae, and I move that the jury be instructed to disregard the same on the ground that first, such evidence is incompetent, irrelevant and immaterial. Second, on the ground that it is prejudicial to the defendant. Third, on the ground that it is subsequent to the alleged crime, and has no connection therewith. Fourth, on the ground that it could not be introduced as part of an alleged conspiracy, the indictment herein not being for conspiracy, but, in the first count, an attempt at murder in the first degree, and the second count, assault in the first degree.

THE COURT: The motions are denied.

MR. MERCHANT: Exception, please.

MR. MERCHANT: I move the Court to advise the jury to acquit the defendant on the ground that no prima facie case has been made out.

THE COURT: Motion denied.

MR. MERCHANT: Exception, please.

MR. MERCHANT: I would like to have brought from the Clerk's office the original papers, the indictment in the case of People against Pogani, for this same crime. I desire to examine them.

THE COURT: They may be sent for.

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DEFENDANT'S CASE.

C H A R L E S R O S S I C H I A F A L O, of 115 West 49th Street, the defendant, called as a witness in his own behalf, being duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. MERCHANT:

Q You are one of the defendants in this indictment?

A Yes sir.

Q Where were you born, Rossi? A Italy.

Q How old were you when you came to this country?

A About fifteen or sixteen.

Q Where do you live? A 115 West 49th Street.

Q What is your father's name, - Chiafalo? A Chiafalo.

Q And Rossi is your mother's name, is it not? A Yes sir.

Q By which name have you usually been known? A Rossi.

Q How did you happen to be called Charley Young? A The fellows called me that when I was a boy.

Q Did you ever change your name for the purpose of concealing your identity?

MR. McDONALD: Objected to.

THE COURT: Allowed.

A No sir.

BY THE COURT:

Q You have been known as Charley Young? A By the police.

Q And in Sing Sing you were known as Charley Young? A I never go by that name.

Q Did not Judge O'Sullivan send you away as Charley Young?

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A No, as Charles Rossi.

Q But you are Charley Young? A My name is Charles Rossi Chiafalo.

Q But you are Charley Young that these people have been speaking about? A There is many Charley Youngs.

Q Do you understand my question; you are the Charley Young that they have been speaking about, these witnesses? A Yes sir.

BY MR. MERCHANT:

Q When did you leave Sing Sing, Rossi, after this conviction? A 1915.

Q What month? A In November.

Q Since leaving Sing Sing in November, 1915, where have you lived? A I lived home with my sister.

Q Where is that? A 224 East 13th Street.

Q After that how long did you live there? A I lived there until I worked for Mr. Jacobs.

Q When was that, do you remember? A Left the latter part of 1916.

Q Where have you lived since then? A I lived in 222 West 28th Street.

Q How long did you live there? A I lived there, -I worked for Mr. Feinberg for about two months; I was working with Mr. Feinberg on 38th Street.

Q I will come to that in a moment. Since then, and until you were arrested under this indictment, where did you live?

A Always there.

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Q You were arrested about one o'clock in the morning of August 21st, 1917? A Yes sir.

Q And you were taken to the Tombs that morning? A No sir.

Q When were you taken to the Tombs? A The next day.

Q August 21st? A August 21st, yes.

Q That is the same day you were arrested. You were arrested at one o'clock in the morning? A I was arrested at one o'clock in the morning.

Q What time were you taken to the Tombs? A About ten o'clock; - no, about eleven o'clock.

Q Now, between one o'clock in the morning and ten o'clock in the morning where were you? A I was down in the Third Branch.

Q The Third Branch, Borough of Manhattan? A Yes sir.

Q And you remained in the Tombs? A Yes sir.

Q Until, - was it November 14th? A Yes sir.

Q Of last year, - and then you were bailed? A Yes sir.

Q Now, after leaving Sing Sing what did you do for a living?
A I worked for Mr. Jacobs and Mr. Reinberg.

Q What is Mr. Jacobs' business? A He is in the ticket office business.

Q Where did you work for him? A Across the way from the Opera House.

Q What Opera House? A Metropolitan Opera House.

Q How long did you work for him? A About three months.

Q Then whom did you work for? A Reinberg.

Q What does he do? A He is in the same business.

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Q Where did you work for him? A On 40th street.

Q How long did you work for him? A A couple of months.

Q Then whom did you work for? A For myself.

Q What did you do to make your living? A Driving a car, hacking.

Q An automobile? A Yes.

Q You continued to drive a car for a living until you were arrested on August 21st, in the early morning? A Yes sir.

Q Do you remember the 20th of August, 1917? A Yes sir.

Q Beginning, say, at six o'clock in the evening of that day, do you remember what you did from that time on? A Yes sir.

Q Where can you begin, Rossi, as to what you did; can you begin at six o'clock? A About six.

Q What did you do and where were you on that day? A Well, I generally go to the Times Square Building in the evening.

Q First, you were living at the time of your arrest at the Hotel Remington, were you not? A Yes sir.

Q And you had your automobile, you owned your car? A Yes sir.

Q Where was your stand? A 46th Street.

Q Now, on this day where were you about six o'clock in the evening? A Six o'clock in the evening I was in the Times Square Building. I used to go and call on a man who has got a machine over there. They used to have over-calls, and then give them to me.

Q You mean you used your car? A Yes.

Q Go ahead? A I was over there about an hour or so. Then

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I go over to 46th Street, and wait there until Mr. Shelly, who has got an office there.

Q Where was Shelly's office? A 163 West 46th Street,

Q What time was that? A All evening I was there, sometimes.

Q I am speaking of this particular night, August 20, 1917?

A I was there about half-past seven.

Q Where did you do from there? A Eight o'clock I left the front of the hotel and went to the doctor's office.

Q What was the name of the doctor? A Dr. Cohen.

Q Where was his office at that time? A 75 West 47th St.

Q How long were you there? A About half an hour, or twenty-five minutes.

Q Was he treating you as a physician? A Yes sir.

Q About what time did you leave there? A About half-past eight.

Q Where did you go from there? A I went right over to Mr. Bushman's office.

Q Where does Mr. Bushman live or where was Mr. Bushman at that time? A In his office in 46th Street.

Q What was his business? A In the automobile business.

Q Is his place of business across from the Remington Hotel?
A No, it is away over near the James Drugstore, across the way.

Q What is the address of Bushman's place of business?
A 160, I think.

Q On 46th Street? A Yes sir.

Q He is a garage owner? A He is an automobile owner, Bush-

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man & Brown.

Q What time did you get there? A I was there about twenty-five minutes, or twenty minutes to nine.

Q What happened, if anything, there? A I spoke to Mr. Bushman about a call that he sent to Coney Island, and that call was mine.

Q About a call? A Yes sir.

Q What do you mean by a call, a call for an automobile?
A Yes. They called for my automobile, and this woman was in a hurry to go to Coney Island.

Q How long, by the way, have you known Dr. Cohen, or had you known him before? A Since the 13th of August.

Q How long had you known Bushman, about? A About a month.

Q Had you had any business relations with Mr. Bushman?
A No sir.

Q Was anything said at Bushman's about a telephone call for you?

THE COURT: I will exclude that as immaterial.

MR. MERCHANT: Exception.

THE COURT: What he said is immaterial, or what anyone else said to him. Just confine yourself to the legal evidence.

Q From Bushman's, where did you go? A I got a call from across the street to answer the telephone.

Q Where did you go, what did you do? A I answered the tele-

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Q Where did you go from Bushman's? A Across the street to answer the telephone call.

Q Did you answer the telephone call? A Yes sir.

Q Where was it you answered the telephone, what place?
A Mr. Shelly's office.

Q Where is that? A Across the street from Bushman's.

Q From that place where did you go? A I got a call for Mrs. Fields to go up to 776.

BY THE COURT:

Q Where did you go; you are not answering the question?
A I am answering the question.

Q Where did you go? A I went over to get my car in front of the hotel and I went up to 776 8th Avenue, to Mrs. Jackson's.

BY MR. MERCHANT:

Q Between what streets on 8th Avenue is that? A Between 47th and 48th streets.

Q What time did you get there, about? A About five, seven or eight minutes of nine; before nine o'clock.

Q Who was there? A Mrs. Fields, Mrs. Jackson, Mr. Jacobsen, - I don't know how you pronounce his name, Jacobsen, and her brother.

Q Do you know the name of the brother? A I don't know the name, except I only met him twice.

Q You had only met him twice? A Yes sir.

Q How often had you met Mrs. Field? A She lives in the

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same house where I used to live.

Q How long have you known Mrs. Jackson? A Only a few times.

Q Who else was there? A Mr. Jacobsen.

Q How long had you known him? A I met him twice; two or three times.

Q They were all at the apartment? A Yes sir.

Q At Mrs. Field's? A At Mrs. Jackson's apartment.

Q How long did you stay there? A I stayed there until half-past eleven or a quarter to twelve.

Q Then what did you do then? A Then I took Mrs. Field for a ride.

Q An automobile ride? A Yes sir.

Q What time did you get back to the Hotel Remington?

A About a little after twelve, I guess.

Q About what time were you arrested? A Half-past twelve or a quarter to one.

Q During the day of August 20th, 1917, were you at any time at or in the neighborhood of 110th Street and 2nd Avenue?

A No sir.

Q Borough of Manhattan, City and County of New York?

A No sir.

Q You know Sam Sacco? A Yes sir, from Sing Sing.

Q Do you know Peter Bianco? A No sir.

Q When did you first see Peter Bianco? A In the Tombs.

Q Do you mean after August 20th, 1917? A Yes sir.

Q Do you know John Pogany? A Yes sir.

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Q How long have you known him? A A couple of months.
I bought a car for him, a Stutz car.

Q What do you mean by a couple of months? A I don't remember the date.

Q I mean a couple of months before August 20th? A Yes sir.

Q Sometime in June, let us say? A Yes sir.

Q What was last summer? A Yes sir.

Q Between about one o'clock on the morning of August 21st, and nine or ten o'clock of the same morning you say you were at the Third Branch Detective Bureau, after your arrest?
A I reached the Third Branch Detective Bureau.

Q How long were you there? A I was there right after two o'clock, I think.

Q Until in the morning, they took us over to the Coroner's inquest.

Q When was the Coroner's inquest? A August 21st. They took us to Headquarters first and then to the Coroner's inquest.

Q What time was that, when they took you to the Coroner's inquest? A I don't remember, about eleven o'clock, or half-past eleven.

Q During the time that you were at the Third Branch Detective Bureau did you state certain things which you said you had done on the evening of August 20th, 1917, to Mr. Joyce, Assistant District Attorney?

MR. McDONALD: Objected to.

THE COURT: Objection sustained. It does not make any

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difference what he said to Mr. Joyce.

MR. MERCHANT: Exception.

THE COURT: If the People had attempted to bring out any statement made by him, contradicting him, if the statements did not agree, it would be competent. There has been no testimony given of any statement by him that I recall.

MR. MERCHANT: Will your Honor hear me on that.

THE COURT: That is an elementary proposition of law. Please proceed. This is the time for him to make any statement that he wishes to make to this jury.

Q Were you at any time on the 20th of August at or near De Luca's saloon? A No sir.

Q Or the drugstore opposite? A No sir.

Q Or this café or dance hall that they speak of in 109th Street? A No sir.

Q Or in 110th Street? A No sir.

Q All in the Borough of Manhattan, City and County of New York? A No sir.

Q These places are all in this city and county; were you at any of those places on that day? A No sir.

Q Have you ever had any quarrel with De Luca? A No sir. I never saw him since I am out of jail.

Q Had you any falling out at any time or any enmity against De Luca? A No sir.

Q Did you ever take a ride in the Bronx with Sam Sacco and

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De Luca and discuss the killing of somebody? A No sir.

Q Or say that you could get ample bail, plenty of bail?

A No sir.

Q If such a shooting was done? A No sir.

Q Did you ever talk over with Sacco or Pogany or anyone else the shooting, or the idea of shooting Dominic De Luca?

A No sir.

MR. MERCHANT: Your witness.

THE COURT: There is no testimony that he took a ride to the Bronx with De Luca, as I recall.

BY MR. MERCHANT:

Q Did you ever take a ride to the Bronx with Rossie?

A No sir.

Q And discuss the shooting of some man? A No sir. I would not have him ride in my car.

Q Or anyone else? A No sir.

BY THE COURT:

Q You would not have Rossie ride in your car? A I would not have no ex-convict ride in my car, because I was honest.

CROSS-EXAMINATION BY MR. McDONALD:

Q Did Sacco ever ride in it? A No sir.

Q How long have you known Sacco? A From in Sing Sing prison.

Q Did you know Rossie up there too? A No sir, I never spoke to the man.

Q Sam Sacco lived at the Hotel Remington? A I don't know.

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Q You lived at the Hotel Remington? A Yes, there is lots of people lives there.

BY THE COURT:

Q Didn't you live there? A Yes.

BY MR. McDONALD:

Q How long have you lived there? A A couple of months.

Q When did you live there a couple of months, before the shooting or after? A Before the shooting, before the 20th of August.

Q That is the only shooting we are concerned in now, the 20th of August, or alleged shooting, at 110th Street, on the 20th of August. Did you know Sacco there? A No sir.

Q Did you know Sacco as being a man who frequented 46th Street and the corner of Broadway?

MR. MERCHANT: Objected to as incompetent, irrelevant and immaterial; no charge of conspiracy here.

THE COURT: It is not necessary to make out a charge of conspiracy. These three are indicted for the shooting. If it be proved that there was a corrupt agreement between them to kill De Luca, or to shoot DeLuca, each one is liable for any act the others did in carrying out that agreement.

MR. MERCHANT: Exception.

THE COURT: They have a right to question him as to his relationship with Sacco.

MR. MERCHANT: Exception, please.

THE COURT: That will be one of the questions for the

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jury to decide, whether there was a conspiracy or not.

MR. MERCHANT: Exception.

Q (Question repeated) A No sir.

BY THE COURT:

Q Did you understand the question? A Yes.

Q But you do not know him? A No.

BY MR. McDONALD:

Q Did you ever see him around there? A I seen him a few times.

Q Prior to August 20th? A I did not see him that day.

BY THE COURT:

Q Prior to that; did you see him for a month before?

A I saw him a few times.

Q Q Under what circumstances did you see him? A Just to say hello, how are you, and pass by.

BY MR. McDONALD:

Q Where was he then when you saw him? A I don't remember where I saw him.

Q At these times you did say hello to him, wherever he was?

MR. MERCHANT: Objected to as incompetent, irrelevant and immaterial.

Objection overruled. Exception.

A I met him once in the Times Square building.

Q About when was that? A I don't remember.

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Q And you met him again after that, did you? A I seen him a few times on the street and said hello and passed by him. I never had any conversation with him.

Q You passed by him in 46th Street? A No, Broadway.

Q Where was your stand? A I had no particular stand at all.

BY THE COURT:

Q Where was your stand; where did you say your stand was, on direct examination? A Only on 46th Street I used to get my calls there.

Q Where did you say it was, your stand? A 46th Street.

Q Did you have a stand or not? A No stand. I used to get my calls.

Q Then you were mistaken when you said you had a stand?
A I said I used to get my calls, like from Shelly's office.

Q Where was Shelly's office? A 46th Street, No. 143.

Q Near what place is that? A Near Broadway.

Q That is where the Hotel Remington is? A That is 129, Hotel Remington.

Q And the place where you saw Sam Sacco was near where your stand was? A No, I saw him on Broadway.

BY MR. McDONALD:

Q By the way, did you live at the Hotel Remington alone?
A Yes sir, at that time.

Q All the time at the Remington alone? A At that time.

Q What do you mean by that time? A August 20th.

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Q You lived at the Remington two months, didn't you?

A About that.

Q Previous to the 20th day of August, 1917? A About two months.

Q Were you living there along? A When I got arrested, yes.

Q Well, for the two or three months were you living there along? A No, I lived with my wife for a few days.

Q What is your wife's name? A Anna Marks.

Q Is your wife in court? A No sir.

MR. MERCHANT: She's outside.

Q Is that Anna Marks (pointing to a person in court room)?

THE COURT: If there are any witnesses in the court room they must be excluded.

A She is outside.

Q When were you married to her? A Last week.

Q Where were you married? A In the City Hall.

Q What took you so long to remember it?

Objected to.

Objection overruled. Exception.

A She is a Jewish girl and I am a Christian fellow and her mother did kind of - I don't know, - disagreement between her mother and her, and so she convinced herself to marry me.

Q What was the reason you took so long to remember when I asked you the question, when were you married? A I just told you about a week. I wanted to remember the day I got

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married.

Q You lived with this young lady at the Hotel Remington for two or three months previous to August 20th? A Not two or three months.

Q About how long? A She went to the country in Maine.

Q You sent her to the county in May? A No, Maine, and when she came back I sent her home to her mother.

BY THE COURT:

Q When did you begin to live with her as your wife?

Objected to.

Objection overruled. Exception.

A September sometime, last year.

Q You told Mr. McDonald you lived with her before the 20th of August? A Oh, I mean 1916, about a year, over a year.

Q You were living with her over a year as your wife before being married? A Yes.

Q Why didn't you tell that when he asked you? A I must have misunderstood.

Q And you were living in the Hotel Remington with her as your wife? A Not in the hotel.

MR. MERCHANT: I object. It appears he is married to her. It is immaterial.

THE COURT: It is material on the question of his credibility.

MR. MERCHANT: I move to strike it out.

Motion denied. Exception.

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Q What does this girl do; what did she do while she was living with you?

Objected to as incompetent, irrelevant and immaterial.

Objection overruled. Exception.

A She does nothing since she is with me.

Q Since she is with you she did nothing? A I have been keeping her, supporting her.

Q What did she do before she went with you?

MR. MERCHANT: Objected to as incompetent, irrelevant and immaterial and highly prejudicial.

THE COURT: I will allow it.

MR. MERCHANT: Exception, please.

THE COURT: The jury have a right to know what kind of a man he is. If he had not taken the stand it would not be material, but on the question of his credibility, it is, since he has taken the stand. The jury must determine how much credence they will give his statements, and they have a right to know of any criminal, vicious or immoral acts in his career.

MR. MERCHANT: Exception.

Q What did she do before she went with you? A She was working with a show.

Q What show? A Thompson.

Q How long have you known her? A I only met her over a

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year ago.

Q How long before you took her to live with you at the hotel, or elsewhere?

Same objection.

Objection overruled. Exception.

BY THE COURT:

Q How long had you known her when you began to live with her as your wife, without being married? A Maybe three weeks; I don't remember, maybe more.

BY MR. McDONALD:

Q Who married you? A The alderman in the City Hall.

Q Who was he? A I don't know his name.

Q When did you get the license? A Last week.

Q Where? A In the City Hall.

Q You don't know who married you? A I don't remember his name.

Q What day of the week was it?

MR. MERCHANT: Objected to as incompetent, irrelevant and immaterial, prejudicial to the defense.

Question allowed. Exception.

A I don't remember; I can give you the paper.

Q It was last week, however? A Yes.

Q You say you went to the Times Square building on the 20th of August, 1917? A Yes.

Q Do you mean the Times Square Auto Company? A The Times Square Building,

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Q Where is that? A In front of the subway.

Q Where? A On 42nd Street and 43rd Street and Broadway.

Q About what time did you go there? A About six or half-past six.

Q Did you see anybody there? A I seen a lot of fellows there.

Q Do you know any of them; can you recall any of the men you saw there that time? A Certainly, I saw some fellows selling newspapers.

Q Can you recall any? A I don't know their names.

Q You do recall what time you went there, don't you?

A In the evening. I don't know what time. I would not mark it in the book what time I had been there.

Q In answer to your counsel's question you said you got there at six o'clock, is that true? A After six or before six; something like that.

Q Are you sure it was about six? A No, I ain't sure.

Q What time was it? A I just answered I don't know what time it was.

Q You remained there how long? A Maybe twenty minutes, maybe half an hour.

Q Then where did you go? A I went back to 46th Street.

Q Where was your car during this time? A At 46th Street, in front of the Hotel Remington, near the church.

Q What time did you leave Miss Marks that day? A My wife?

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Q Miss Marks, your wife? A My wife was home in Flushing.

Q When did she go to Flushing? A She went to Flushing about two weeks before the 20th.

Q So she had been in Flushing two weeks? A With her mother.

Q You came back from the Times Square Building at about half-past six? A I don't know what time I came back.

Q Where did you go? A Right back to 46th Street.

Q To where? A To the hotel, to wash myself; then I came down and I went to Dr. Cohen.

Q Did you go any place between the time you went to the Times Square Building and the Hotel? A No.

Q You went right upstairs? A I was standing right there near the car and then immediately went to see the doctor, right before eight o'clock sometime. I took a wash and went over to Dr. Cohen. He was ready to go out.

Q Who? A Dr. Cohen. He gave me hell because I did not come around before that.

Q You say you got there about what time, to the doctor's office? A About eight o'clock; or a little after eight.

Q Now, which is it, eight o'clock? A A little after eight.

Q How long did you remain in the doctor's office? A Twenty-five minutes or a half an hour or so.

Q You were being treated for what?

MR. MERCHANT: Objected to as incompetent, irrelevant

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and immaterial.

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THE COURT: I do not see how that has any bearing, but I will allow it.

MR. MERCHANT: Exception, please.

BY THE COURT:

Q Just state what you were doing at the doctor's office?

A I was getting massage treatment, and treatment for my bladder, you know. (Witness pointing to his groin)

THE COURT: The jury are not obliged to believe him, that he went to the doctor. Let him state what his disease was and why he went there. If he had any disease it may be some evidence in his favor. The nature of the disease is not the reason.

BY MR. McDONALD:

Q Just state what you were doing at the doctor's office?

A I did not explain it right.

Q How long did you remain there? A Twenty-five minutes or half an hour.

Q Then did you go right up in your car? A No sir.

Q You left the car down at the Hotel Remington? A Yes.

Q Was anybody with it? A No sir.

Q What did you do then? A Then I went over to Mr. Bushman's office.

Q About what time was it that you went there? A It took about five or ten minutes.

Q You left Bushman's about what time? A A quarter to nine, as soon as they called me across the street to answer the telephone.

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Q About twenty minutes to nine? A Maybe a quarter to nine. 139

Q Where was the doctor's office? A 75 West 47th Street, right near 6th Avenue.

Q Then where did you go? A I went right to 46th Street, Mr. Bushman's.

Q Where did you go? A To Mr. Bushman's, right straight to Mr. Bushman's.

After you met Mr. Bushman

Q /Where did you go? A Across the street to answer the telephone.

Q Bushman was on the street, was he? A Yes sir.

Q He was right in front of his office? A Yes sir.

Q Why did you cross the street, to Mr. Shelly's place?

A The man called me, that there was a telephone for me.

Q Didn't Mr. Bushman tell you there was a telephone call?

A No, Mr. Bushman was talking to me with regard to a call for the car.

Q What call? A A call for me. The party was calling for me and I was not there and she said she wanted the car because they were in a hurry to go to Coney Island, some woman. He was just after telling me, "I sent one of my cars". I said, "I don't care; I got another call tonight, that is all right, you done right".

Q When did you receive the other call? A Right after, I got the telephone call.

Q When did you get the telephone call? A I got the tele-

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phone call twenty minutes to nine or a quarter to nine.

Q Where? A In Shelly's office.

Q You mean you got the call yourself? A I was in front of Mr. Bushman's place.

Q Mr. Bushman told you what? A Mr. Bushman said, "There was a woman looking for you for a call to go to Coney Island". I said to Bushman, "What did you do?" He said, "I sent one of my cars". I said, "That is all right, I have another call. Mrs. Field was supposed to call me up for a ride at eight o'clock".

BY THE COURT:

Q Then you did not get any telephone call at all? A I did get one in Shelly's office.

Q Bushman told you there was a call? A That was a different call, your Honor.

Q Did you receive any call in person that night; yes or no? A By telephone, yes sir.

Q Did you receive it? A Yes sir.

Q Why did Mr. Bushman have to tell you there was a call? A Because the lady was looking for me. She was my customer.

Q She was there in person? A In person.

Q Bushman told you the woman had come there? A Yes sir, the woman called to Bushman looking for me.

Q Then the woman had come to his place? A Yes sir.

Q You did not see the woman? A No.

Q You did not call that a telephone call, did you? A It was a call for the car.

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Q Did Bushman tell you there was a call for you? A ¹⁴¹ No.

Q He told you there was a woman there? A The woman called there for me.

Q Do you speak English well? A A little bit.

Q Are you born in this country? A No.

Q How long have you been here? A Sixteen or seventeen years.

Q Would you like to speak Italian? A No sir, I rather speak English.

Q Well, open your mouth wide when you speak, and speak English? A Yes.

Q You know the difference between Bushman telling you there was a telephone call and telling you there was a woman there? A I did not say that.

Q Now, take your time and begin all over again and just answer the questions.

BY MR. McDONALD:

Q You say you came back from the doctor's office and met Mr. Bushman? A Yes sir.

Q That is right, is it? A I met Mr. Bushman.

Q After you met Mr. Bushman what did you do? A I was talking to Mr. Bushman.

Q After you had talked with Mr. Bushman what did you do?
A Another man called me from across the street to answer the telephone.

BY THE COURT:

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Q Another man called you? A Yes.

Q Who was that other man? A One of Mr. Shelly's office men. I don't know which one.

Q It was not Bushman? A No.

Q But while you were talking to Bushman a man came over from Shelly's office? A Right after I left Bushman, from across the street they called me over to the telephone. Mr. Bushman was about three or four feet away from me.

Q You and Mr. Bushman did not say a word about any telephone then? A No.

Q Bushman told you there was a woman there looking for you? A Yes sir.

Q And then you went to Shelly? A I answered the telephone.

Q Then they told you there was a call on the telephone and you answered? A They said, "There is a telephone for you, Charley". I answered the telephone.

Q And these two cases were on different sides of the street? A Yes.

BY MR. McDONALD:

Q You talked to somebody there? A Yes sir.

Q Who was that? A Mrs. Fields.

Q You talked on the 'phone with her, you mean? A Yes.

Q When did you meet Mrs. Field first? A In the Hotel Remington. Her husband is a performer.

Q When did you first meet Mrs. Field? A When I met her during the month of August.

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Q That same month of August, 1917? A About a week or ¹⁴³
two before.

Q How many times did you meet her there? A I generally saw her every night standing in the lobby. I tipped my hat and passed by.

Q How did you know her name was Fields? A I took her out in the car one night.

Q When was that? A The week before, I guess.

Q What week was it? A August, the week before the 20th.

Q The week before the 20th? A Yes.

Q What day of the week was that? A I don't remember the day of the week. Mrs. Jackson I took.

Q Who introduced you to her? A I got an introduction to Mr. Roy, some fellow, one day walking in the hotel or sitting in the lobby.

Q Do you know who introduced you, if anyone did? A A young fellow from Washington, some big, tall fellow, I don't know his name.

Q Who was he? A I guess the name I don't remember.

Q Who was he? A I don't know. He is a moving picture man.

Q He introduced you to Mrs. Fields in the lobby of the Hotel Remington? A Yes, right in the front of the hotel, in the lobby. They always sit down in the front of the hotel, and naturally people know you and introduce you to one another. A few days after I took her for a ride.

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Q A few days after you met her you took her for a ride?

A About two or three days after.

Q When did you make the appointment with her to take her out riding? A I did not make no appointment.

Q Did you just happen to come along, as she was in the lobby of the hotel and you invited her for a ride? A Yes.

Q Did you take anybody else with you? A No.

Q What time did you go out? A In the evening.

Q Is she a married woman? A Yes. I used to take a lot of them girls, mothers, sisters, daughters and all them people. They asked me for a ride and I give them for about ten, fifteen or twenty minutes a ride.

Q Where were you with Mrs. Fields on this night?

A Which night?

Q The night you took her out for a ride? A Which night?

Q Did you take her out along on two nights; did you take her out alone for a ride on two nights? A I answered that question yes, that I took her out the first time.

Q The first time was when? A I don't remember the day.

Q Do you know where you went? A Yes.

Q Where did you go? A Away uptown.

Q Where did you go.

MR. MERCHANT: Objected to as incompetent, irrelevant and immaterial.

A We went up to where the camp is.

THE COURT: I will allow it; it may be connected.

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Q Where did you go? A Where that camp is, the soldiers' camp, I don't know what's the name of the place.

Q Van Cortlandt Park? A Away up town.

Q Van Cortlandt Park? A I think so, I ain't sure. Some place up there.

Q What is your occupation? A Chauffeur.

Q Don't you know where Van Cortlandt Park is? A No, because I do private calling. I ain't got no hacking license. I do private calls.

BY THE COURT:

Q Do you have to have a different license to go to Van Cortlandt Park or Coney Island? A No sir.

Q You have been to Coney Island, however? A Yes.

Q So that because you had no license is no reason you don't know? A We don't know all the places.

Q As a matter of fact you do not know? A No.

Q Where Van Cortlandt Park is? A No sir. I know there is a soldiers' camp there.

BY MR. McDONALD:

Q What time did you leave the hotel that night on the first ride that you took with Mrs. Fields? A I don't remember.

Q What time did you come back? A I don't remember.

Q Now, the second night you went out with Mrs. Fields?

A I did not go out the second night.

Q I thought you said you took Mrs. Fields out alone twice for a ride? A A few times I took Mrs. Field for a ride and Mrs.

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Jackson.

Q I thought you said you took Mrs. Fields out riding twice? A A few times; more than twice, maybe. I don't remember how many.

Q When was the second time you took her out? A We went away with Mrs. Jackson.

Q When? A I don't remember the day.

Q Now then, you say the first time that you took Mrs. Fields out was when? A I don't remember, I said.

Q Well, it was not the day you met her? A A few days after.

Q Do you remember when you met her? A I don't remember.

Q Was it sometime in August? A Sometime maybe in August.

Q Well, was it in August? A I don't remember.

Q You said it was the week before the 20th of August, is that right? A No sir.

Q Did you say that? A As far as I know, I don't remember.

Q Was it a week before the 20th of August you first met this Mrs. Fields? A Maybe three weeks; maybe two weeks; I don't remember.

Q Well, it was not any longer than three weeks? A I don't remember. What is the use of my lying?

Q Do you remember the first time you took her out? A No sir.

Q Do you remember the fourth time you took her out? A I remember the last time I took her out.

Q How many times did you take her out? A A few times.

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Three or four times; I don't remember. I did not mark it down.

Q How many times did you take her out? A Maybe three or four times, maybe more. I was in company with Mrs. Jacobsen once.

Q Do you mean Mrs. Jackson? A Yes.

Q You call her Mrs. Jacobsen? A Well, there is a Mr. Jacobsen and Mrs. Jackson. One night we went out for a ride together.

Q When was that? A I don't remember the night. I remember that time we went out for a ride. I remember the first time we went out for a ride and I remember the last time and it was a couple of more times I don't remember clear, because she was sick, Mrs. Field.

Q How do you know that? A She asked me to give her a ride in that time she was sick..

Q When was that? A I don't know, I can't answer. I don't remember the date.

Q Was she sick only one day? A I don't know if she was sick two or three or four days or a week. That is up to her. I seen her a couple of times. Sometimes I see her in a day and may be not for two or three days.

Q On the night of August 20th did you use your car at all that night?

Gentlemen of the jury, the Court will take a recess until two o'clock. Remember what I have told you. The

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law requires me to admonish you that you must not discuss this case with anyone. You must not talk about it among yourselves nor discuss it with strangers and you must not form or express an opinion on the question of the guilt or innocence of the defendant until you hear all the evidence, all that is to be said on both sides. In other words, you must keep an open mind on the case until you hear all the evidence, and then when it is committed to you at the end, that is the time to decide it and not before that.

Be back, please, at two o'clock.

R e c e s s.

Afternoon Session. Trial resumed at 2 P.M.

C H A R L E S R O S S I C H I A P E L O, the defendant, recalled to the stand for further cross-examination:

MR. MERCHANT: If your Honor please, may I have Peter Bianco sent over from the Tombs to save time?

THE COURT: Yes.

CROSS-EXAMINATION BY MR. McDONALD CONTINUED:

Q On the night of the 20th of August did you use your car at all that night? A Yes sir.

Q Describe that car. A A Packard car.

Q A seven-passenger? A Yes sir.

Q How was it painted? A Dark blue.

Q What time did you take your car out that night or that day? A I did not take it out that day.

Q Who took it out? A Some kid working in the garage.

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Q Was he working for you? A He generally do my work in the night.

Q When did he take it out? A About two or three o'clock in the afternoon.

Q Were you with him when he took it out? A No, I was in 46th Street.

Q Where? A In the hotel.

Q Did you see him take it out? A I did not see him in the garage when he took it out but he brought it over to the hotel to me.

Q Then you saw him at two or three o'clock? A In the afternoon, yes sir.

Q Did it remain there then all day? A He went over to 43rd Street.

Q He took it away? A Yes sir.

Q Did he bring it back again? A Yes.

Q What time? A Right after seven or half-past six, something like that. He went in the garage because he had to do some job.

Q Did he bring it back to the hotel? A Yes.

Q And left it there? A Yes.

Q You saw it there in front of the hotel about six or seven o'clock? A Yes sir, seven o'clock.

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Q That was after you had come back from the Times Square Building? A Yes.

Q Did you see it before you went over to the Times Square Building? A When I came back?

Q Yes? A Yes.

Q You saw it after you came back? A Yes sir.

Q What did you do then? A I left the car there.

Q Where, in 46th Street? A In 46th Street.

Q In front of the hotel? A Yes.

Q How long did you leave it there? A Until a quarter to nine o'clock, went over to the apartment house for Mrs. Jackson.

Q What was the number? A I got the license number.

Q The number of the apartment house, I mean, at Mrs. Jackson's? A 776 Eighth Avenue.

Q That is between what streets? A 47th and 48th Streets.

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Q On what side of the way? A On the east side of the way.

Q Did you go upstairs? A Yes, sir.

Q What floor does she live on? A Apartment 8.

Q What floor? A I don't know what floor; maybe the second floor or the third, apartment 8.

Q How many times had you been to Mrs. Jackson's apartment before the 20th of August, 1917? A A couple of times.

Q When was it you went there before? A I don't remember. I was there the night we took a ride.

Q When was that? A The week before maybe.

Q Was that the first time you were there, a week before the 20th of August? A As far as I remember. Once or twice, I don't remember distinctly.

Q The first time you went there, who did you see? A I met Mrs. Jackson's brother.

Q What is his name? A It started with an "L", -- Leonard.

Q Leonard Jackson? A No, Leonard is the last name I suppose, but I know they call him Leonard.

Q Who else was there besides Mrs. Jackson and Leonard?
A Mrs. Jackson, Mr. Leonard and Mrs. Leonard, Mrs. Field and Mr. Jacobson.

Q Did you take Mrs. Field over from the hotel? A No, sir.

Q She was there? A She was there.

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Q That was not where you met Mrs. Field originally, was it, the first time? A No, sir.

Q What time was it that you went up there that night; I mean the week before the 20th of August? A I don't remember.

Q Was it late or early in the night? A I don't remember. I remember it was in the evening, one night, I took them as far as I don't know just where. After taking a ride with Mrs. Jackson, Mrs. Field and Mr. Jacobson, I took them as far as the apartment and left them there.

Q Where did you take them to? A Well, took a ride up town.

Q Where did you take them from? A I don't remember what place I took them from.

Q Do you know where you met them? A Wait until I think about it.

MR. MERCHANT: Louder, please, I cannot hear you at all.

THE COURT: This witness has a bad habit, after apparently having finished his answer, of mumbling some few words that we cannot understand or hear. You have all the time you want to answer questions and if you don't understand the question say so.

A I don't remember. I know I took a ride with them one night before.

Q Where did you go? A We went uptown.

Q Where? A Way up in the Bronx.

Q Where? A On the west side.

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Q Where? A I don't know the place, in that park which was mentioned here before.

Q Van Cortlandt Park? A I suppose; where the camp is for the soldiers, near the elevated station.

BY THE COURT:

Q Soldiers were in Pelham Bay Park also. Is that Van Cortlandt Park you mean? A In the west side, I know.

Q You don't know anything about those parks? A No, sir. We stopped in and had a few drinks and we came right back.

Q You said in your last answer up in the Bronx and then you said up on the west side. Which is it? A The west side, what do you call it? Bronx and Manhattan. I don't know nothing about the city.

Q Which was it, the Bronx, or was it the west side?

A I am describing how we go up.

Q Well, how did you go up? A We went up to Broadway and way up and hit the elevated, where the subway goes up. On the left hand side there is a restaurant and we stopped in the garden and had a few drinks.

Q Who drove the car? A I had a kid driving the car.

Q You were not driving it? A No.

Q You were not sitting with him? A No, I was sitting inside and then I brought him all the way back.

Q You were sitting in the rear, were you? A Yes.

Q With Mrs. Jackson and Mrs. Field? A Yes.

Q Who else? A Mr. Jacobson.

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Q What time did you come back? -- that is the week before, on that trip? A I don't remember, sir.

Q Well, lets get down to the 20th of August now; what time was it you went to Mrs. Jackson's? A Maybe it was ten maybe 5 minutes to 9 o'clock.

Q Whom did you see when you got upstairs? A Mrs. Field, Mrs. Jackson, her brother and Mr. Jacobson.

Q Her brother? A Mr. Jacobson.

Q Are you sure it is her brother? A As far as I know.

Q How long did you remain there? A Until about half past eleven or twelve.

Q Then where did you go? A Then we took a ride for Mrs. Field to Broadway to 153rd Street and back again on Riverside Drive. I got off at 46th Street and I went home. I left Mrs. Field in the car with the boy who was driving the car and I went home.

Q You say you came down to 46th Street? A When I got off 46th Street, yes.

Q Did you get off in front of the hotel? A No, sir.

Q What time was it you got off at 46th Street? A I don't know what time it was; about 5 minutes before I got arrested.

Q About what time was that? A I did not look at the watch.

Q What part of 46th street did you go to? A I went home, in front of the hotel.

Q What number 46th Street or what part of it?

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A Between Broadway and Sixth Avenue.

Q You got out of the car between those avenues? A No, sir, I got off at 46th Street and Broadway.

Q On the corner of 46th Street and Broadway? A Yes.

Q And you went home? A I went right straight home, and I met a man, he wants to hire the car from me, he has got a child to christen. He asked me how much I wanted.

Q Where did this talk take place? A About two doors away from the hotel.

Q What was the name of the man? A This man got arrested with me, I don't know his name, Julius or Jack. I call him Jack.

Q He was arrested with you? A Yes.

Q You say you left this Mrs. Fields in the car? A Yes, sir.

Q Did she get out? A No, sir.

Q When you went out riding with her that night, were you and this girl sitting in the back seat? A Yes, sir.

Q What was the name of the man driving the car? A I call him Spanish Onion.

Q Did you leave the car in his possession? A Yes. He worked in the garage. He generally does a call for anybody that pays him.

Q Did you give him the car to hack with? A No. When I get a call some time and I cannot go, I send him.

BY THE COURT:

Q How many cars did you have? A I had two. One be-

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longed to my brother-in-law but I sold that one.

Q On the 20th of August, how many cars did you have?

A One car.

BY MR. McDONALD:

Q Did you see Mrs. Fields passing the hotel that night on August 20th while you were standing talking to anybody?

A After 12 o'clock.

Q When you came home from the ride? A No.

Q Did the car leave the place where you left it? A The car left.

Q Where did it go? A I don't know.

Q With Mrs. Fields in it? A Yes.

Q She went out at 46th street, or at least the car went off? A Yes, sir.

Q Did you tell the driver where to go? A I don't remember.

Q What conversation did you have with Mrs. Fields about her remaining in the car? A I don't remember what conversation we had.

Q Did you know that she was going to stay in the car? A Yes.

Q Had she said anything about staying in the car? A I don't remember what she said.

Q Why did you leave her in the car then? A When I went over to the hotel to go home?

Q Why did you leave her in the car there? A Generally

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she wants to take a ride in the car and it was late and I had to go home because in the morning I was supposed to get up early, and I got off.

Q And did she? A She was to ride in the car that night. I don't remember whether she daid it or not.

Q What name were you married under down at the City Hall? A Charles RossieChiafalo.

Q And the name of the girl? A Hanna Marks.

Q What day was it you were married? A I don't remember the date, last week some time.

Q Are you sure it was last week? A Yes, sir.

Q What was the name of the Alderman? A He is a big man. I don't know his name. It must be on the paper.

Q Have you got the papers with you? A No.

Q Who has got that? A My wife.

Q Do you know a girl named Duffy living on 17th Street?

A Yes, sir.

Q Are you married to her? A No, sir.

Q Sure about that? A Sure, positive.

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

Objected to. Objection overruled and exception taken.

Q How long did you live with her? A Nine years ago.

Q Were you married to her then? A No, sir.

Q Did you have any children with her? A No, sir.

Q Sure about that? A Sure about it.

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Q Did she ever have any child while you were living with her?

Objected to as incompetent, irrelevant and immaterial.

Objection overruled and exception taken.

A She has got one.

Q While you were living with her, did she have any child?

A She has got one, I say.

Q Did she ever have that child while you were living with her? A Yes, she has got one.

BY THE COURT:

Q She might have had one yesterday; you do not mean that; while you were living with her did she have any child? A Yes, sir.

Q Did she have one child? A Yes.

BY MR. McDONALD:

Q As a matter of fact, she has got a boy, hasn't she?

A No.

Q What is it, a girl? A Yes.

Q This girl was born while you were living with her?

A No, sir.

Q How long were you living with her? A I was working in a moving picture house.

Q How long were you living with her? A I don't remember.

Q Was it a year? A I don't remember.

Q Was it five months? A I don't remember, sir. I was

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only a young boy then.

BY THE COURT:

Q Did you live with this woman as your wife? A We were only friends.

Q You never lived with her as your wife? A No, sir.

Q But you said you did. Didn't you understand the question when you were asked that question? A She was a married woman.

Q That does not make any difference; you could live with a married woman as your wife? A I don't know that.

Q What did you mean when you told the jury you were living with her? A We were friendly. I used to go up in her house and visit her.

Q You never lived with her as her husband? A No.

Q Or as your common law wife or mistress? A No, sir.

Q She was never your mistress? A No, sir.

Q And you were not the father of her child? A No, sir; the child was about twelve or thirteen years.

Q I asked you distinctly when this child was born, if it was born when you were living with her, and I understood you to state when you were living with her. You should understand the questions before you answer. Do you want to change that testimony about Duffy? A No, what I said is true.

Q But you said things which are apparently contradictory.

Q What is the truth; did you ever live with Mrs. Duffy or Miss Duffy, whatever her name is? A No, sir. I never

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lived with her.

Q As her husband? A No, sir.

Q Your relations with her were friendly; you were visiting her as a friend? A Yes, sir.

Q And you have nothing to do with any child she might have had? A No, sir.

BY MR. McDONALD:

Q Where did she live at that time? A 18th Street.

Q What number? A It was four or five hundred, I don't remember; something like that.

Q How long were you visiting this Mrs. Duffy? A A few months, five or six months.

Q And that was about when? A About nine years ago, about ten years ago.

Q How many times have you been convicted? A Sent to prison?

Q How many times have you been convicted? A Sent to prison? I got suspended sentence.

BY THE COURT:

Q How many times have you been convicted; sentence may have been suspended? A I got two suspended sentences.

Q just explain that to the Court. What were the crimes?
A 1910 or 1909, I don't remember the date.

BY MR. McDONALD:

Q What was that for? A Carrying a concealed weapon.

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BY THE COURT:

Q That is the first one? A Yes.

Q In what court? A Special Sessions.

BY MR. McDONALD:

Q What name did you give then? A Charles Rossie.

Q Sure about it? A Well, Rossie or Chiafalo, one of those two.

Q Did you have another suspended sentence? A Two suspended sentences.

Q When was the second one? A About a few months after; about a year after, I don't know.

Q What was that for? A Carrying concealed weapon.

Q You got a suspended sentence on that too? A That is the time I got shot.

Q That is the time you got shot? A Yes.

Q How soon was that after the first conviction? A I don't remember that.

Q Was it a year or two? A I don't remember.

Q What do you mean when you say you got shot? A I went into a restaurant and they shot me.

Q Did you do any shooting in the restaurant? A No, sir.

Q Did you have a gun with you? A No, sir, it was found in front of me, the gun.

BY THE COURT:

Q And you were convicted in Special Sessions of having a

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gun at that time? A Yes.

BY MR. McDONALD:

Q How many times were you shot that time? A Four times.

Q And you don't remember the date? A No.

Q Now, any other convictions? AA Five days.

Q When was that? A The time they arrested me in a taxi cab robbery.

Q When was that? A 1912.

Q What was the charge? A They charged me with being implicated in a taxicab robbery, \$25,000.

Q What were you convicted of? A Disorderly conduct.

BY THE COURT:

Q You got five days in the work house for disorderly conduct; is that all? A I was placed under \$500 bond to keep the peace in Brooklyn.

Q Were you convicted? A They placed me on a bond.

Q You mean the Court put you under bond? A Yes, sir.

Q Of what offense? A Suspicion.

Q There is no such offense known to the law? A I don't know what the charge was.

Q There was some charge pending over there in the Magistrate's Court, was it? A Yes.

Q And he put you under \$500. bond to keep the peace?
A Yes.

BY MR. McDONALD:

Q As a matter of fact, didn't you get six months in the

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Q Sure of that? A Sure. I was placed under bond.

BY THE COURT:

Q Were you ever in the work house six months? A No, sir.

Q Or for five months? A No, sir.

Q Only five days? A Yes, sir. I was in the hospital those five days.

Q You were never in the work house then as I understand?

A I was to have my finger prints.

Q In the work house? A After five days.

Q When the five days were over, they took you over there to take your finger prints? A Yes.

Q Mr. McDonald has asked you if you were there six months. You could not forget that if you were there six months, could you? A No, sir.

BY MR. McDONALD:

Q Well, in 1912, what were you convicted of? A Carrying a concealed weapon.

BY THE COURT:

Q Is that the conviction mentioned in the indictment that has been referred to?

MR. McDONALD: Yes, sir.

Q Is there any other conviction? A That is all I remember.

Q You were never in Elmira? A No.

Q Or the Penitentiary? A No, sir.

Q And only once in States Prison? A Yes, sir.

BY MR. McDONALD:

Q How long have you known Sam Sacco? A I met him in the prison.

Q What prison? A Sing Sing Prison.

BY THE COURT:

Q When was that? A 1913, I don't remember when but I met him in prison.

Q How long were you in prison on this? A I done three years and a half.

Q The full three years and a half? A No, sir, I got three and a half to seven years, and I done my three and a half and I came out.

Q How long did it take you to do the three and a half years? A Three and a half years.

Q And it was some time during that three and a half years that you met Sacco? A Yes, sir.

Q How long before you came out was that? A A year and a half or two years.

Q You say you knew him in prison for a year and a half or two years? A Something like that.

BY MR. McDONALD:

Q You say Sam Sacco never rode in your car? A No, sir.

Q While you were in it? A Yes, sir.

Q Did you ever have Robert Rossi in the car? A No, sir.

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Q You were saying, at least at one time during your direct examination that you were on 103rd or 130th Street in the car, don't you remember that? A No, sir.

Q You remember going to Willie Willie's to stay? A No, sir, I don't even know the man; never met him.

Q You don't know where it is? A No, sir.

Q Did you ever live in the neighborhood of 110th Street?
A No, sir.

Q Did your sister live there? A No, sir.

Q You know Tony DeLuca? A Yes, sir.

Q And Dominick? A I met him once in prison. He came up with his brother.

Q What do you mean? A He came up to visit me with his brother.

BY THE COURT:

Q Which one was in prison? A Tony DeLuca.

Q Did Dominick come up there? A Yes, sir.

Q And made your acquaintance? A Yes, sir.

BY MR. McDONALD:

Q What was it; did Tony go to visit you too? A Yes, the two brothers came up to visit me.

Q Was Sam Sacco there too? A No, sir.

Q Sacco was in prison at that time, wasn't he? A No, sir.

Q Did Sam Sacco go up with the two DeLucas to see you?

A I don't remember.

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Q When was it that they came up to see you? A I don't remember the date. I know he came up there with his brother to visit me.

Q And Sam Sacco? A No, sir. I don't remember if Sacco was there. I used to have many visitors come up.
Sacco was there.

Q Was Sacco a frequent visitor up there? A He came up there, yes.

Q To see you once? A Yes. He used to come up to see other people.

Q Did he talk to you while you were up there? A Yes, sir.

Q Where did you go with Mrs. Fields on this night, the 20th of August? A I took Mrs. Fields from 776 Eighth Avenue; we went up over Broadway as far as 153rd Street and crossed over to Riverside Drive, and back again to 46th Street and then I got off.

Q Did you stop any place to have a drink? A No, we stopped for gas, in eighty some odd street.

Q Did you drive the car over there to 776 Eighth Avenue?
A Yes, sir.

Q Where did you get Spanish Onion from? A From the garage.

Q Did you 'phone this man that you call Spanish Onion?
A I passed by through 49th Street, because the garage is on Eighth Avenue and he was putting a tire on. I said, "When you get through, come over to 776 Eighth Avenue, I am leaving the car in front of the door". He was fixing the battery

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Q The battery of your car? A Yes.

Q And you were up there how long? A from 9 o'clock to half past 11 or quarter to 12.

Q And you did not mention any special time for Spanish to get the car? A No, I told him as soon as he got through to come over there. He was putting on a tire for somebody.

Q Did he go upstairs? A No, sir.

Q Did you look out of the window? A No, sir, the apartment is in the back. I left the car outside in front of the door.

Q On the avenue? A Yes, sir.

Q And you never looked out to see if it was still there?

A No.

Q What were you doing in the Jackson apartment? A Mrs. Fields called me up for a ride.

Q When did she call you up? A Before nine; a quarter to nine or twenty minutes to nine, something like that. Before nine o'clock, I am sure.

Q How did she call you up? A She told me she was going to call me up, she was going with Mr. Jacobson and Mrs. Jackson to take a ride.

Q When did she tell you that? A I met her in front of the hotel.

Q When was that? A The same night.

Q What time was that? A I don't remember the time.

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Q Was that before you went to the doctor? A Yes, sir, a little before.

Q And after you came back from the Times Square Building, you met her in front of the hotel? A Yes, when I came down from my room.

Q You don't remember what time it was? A No, sir.

Q Tell us everything that was said? A She said she is going to meet Mrs. Jackson in the restaurant in 47th Street-- Mr. Jacobson, -- and they are going up to the apartment and then she would call me up. As soon as they reached the apartment, she said she was going to call me up in time to be over there to take a ride. When we were in her apartment, some friends of Mrs. Jackson's came in, a soldier, which I did not see him, he was in the other room.

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Q What are you telling us? A I am telling you now.

Q Well, how did she know where to call up? A She knew my telephone number in Shelly's office.

Q When had you given her that? A She had my card. She knew my number and called me up several times.

Q Did you give her your card? A Yes.

Q When did you do that? A Before. She always got me down there, because everytime she passed by she always seen me in the front of the office. She knows I hack, that I was getting my calls there.

Q You say you had given her your card? A Yes.

Q When did you give her that? A Before.

Q Before when? A Maybe three or four days, I don't remember if I gave her a card or not, but she knows my telephone number.

Q She does? A Yes.

Q Where did she get that? A From me.

Q When did you give her that? A Naturally I can't remember when, but I know I gave her the telephone number. If she gave her the same night or three or four nights previous, I don't know.

Q What is the telephone number? A 3666 Bryant.

Q What name? A Mr. Shelly's.

Q Is it there under your name? A No sir. They know me. I used to get the calls there.

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Q Do you know how she knew that she could get you ther there? A She asked for me the first time I have called.

Q Did Mrs. Field know she could get you there any time she wanted? A I told her. She was going to call me up.

Q Is that the time you told her where she could get you? A I told her before.

Q When was that? A I don't remember, I don't know.

Q What time was it Mrs. Jacobs called you up that night? A Mrs. Jacobs did not call me up; - Mrs. Field, twenty minutes to nine or a quarter to nine, right after I was speaking to Mr. Bushman.

Q About what time was it she left you to go to the 47th Street restaurant? A She had an appointment over there in the restaurant with Mrs. Jackson. She worked over there.

Q What time was it she left you? A I don't remember the time. I did not look.

Q How long before she called you up? A She called me up about twenty minutes of nine.

Q How long before she called you up was it she left you to go to the 47th Street restaurant? A Maybe an hour maybe three-quarters of an hour, I don't remember. I can't put down the time when I talked to the people.

MR. McDONALD: That is all.

RE-DIRECT EXAMINATION BY MR. MERCHANT:

Q Rossi, on the evening of August 20, 1917, did you

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see any lawyer. I mean see him on the street? A Yes.

Q Who was it? A Mr. Lash.

MR. MERCHANT: That is all.

BY MR. McDONALD:

Q Who else did you see that night? A I saw the doctor and Mr. Bushman and Mr. Lash I seen talking to the barber.

Q What time of the day was that? A About a quarter ^{him} to nine I saw him, when I ~~dressed~~/from answering the telephone, but I did not speak to him .

Q You say you did not talk with Mr. Lash? A I don't remember if ^{he} said, "Hello", I don't remember, but I saw him talking with this barber, right on the sidewalk in front of the barber-shop. It was about two doors away from Mr. Shelly's office.

Q You did not have any long conversation with him at all? A No.

Q You don't know whether you said "Hello" to him or not? A I don't remember if I said "Good evening", or anything.

Q Did he talk to you? A I don't remember.

Q Did he see you? A I suppose he did.

BY THE COURT:

Q How have you known him? A Maybe six or seven months.

Q You knew him on this night? A I spoke to him once. I knew him to see him.

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Q But you knew him before the 20th of August? A Yes.

Q You had met him when? A I met him once.

Q Under what circumstances? A He had a case for a case for a friend of mine, named Slosman.

Q What kind of a case? A I don't know.

Q How did you come to know a lawyer if he had a case for a friend of yours? A I met him in the court, in the courtroom.

Q Were you a witness in the case? A No sir.

Q How were you interested in the case? A I was not interested in the case at all.

Q How did you come to meet the lawyer? A I think I came down about Mr. Cesare Barra on account I had a case in the traffic court.

Q It was a man who had a case for a friend of yours, and you saw him in court once? A Yes.

Q And you never had any talk with him? A Not as far as I know.

Q And yet he remembered you and you remembered him?
A I got an introduction, that was all.

Q Then you must have said something if you were introduced? A I don't know what the conversation was. I know it was that Barra case I had, a case in the traffic court for the eight foot law, and Mr. Barra was my counsel and I came over to get him.

Q Did Mr. Barra introduce you to Mr. Lash? A No sir.

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Q Someone else did? A Yes.

MR. MERCHANT: That is all.

MR. McDONALD: No further questions.

D R. L U D W I G L. C O H A N, of 75 West 47th Street,
a witness called on behalf of the Defendant, being duly
sworn, testified as follows:

DIRECT EXAMINATION BY MR. MERCHANT:

Q Dr. Cohan, you are a regular practicing physician
in New York State? A I am.

Q Where is your office? A 75 West 47th Street.

Q Where was your office in August, 1917? A 75 West
47th Street.

Q Do you know the defendant, Charles Rossi, sitting
here? A I do.

Q When did you first meet him? A On the 13th of
August, 1917.

Q Do you recall the 20th of August, 1917? A Yes sir.

Q Can you state whether or not you saw the defendant on
that day? A I did see him.

Q Where? A In my office.

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

Q In the afternoon or in the morning? A In the
evening.

Q How long did he remain at your office? A Until
about 8:30.

Q Were you treating him professionally at the time?

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A I was.

Q Do you recall that particular day? A I do.

Q Have you any particular reason that brings it to your mind, any record of any kind? A I keep a card system.

Q Have you got the card with you? A I have.

Q Will you produce it? A (Witness producing card).

MR. MERCHANT: I offer it for identification.

Card marked Defendant's Exhibit G for identification.

Q I show you a card marked Defendant's Exhibit C for identification. Is that the card to which you refer?

A That is.

Q Do you keep similar cards for each and every patient?

A I do.

Q Is this ^{the} card which you kept for this defendant?

A Yes sir.

Q What entries are you accustomed to make on these cards?

THE COURT: I will exclude that as immaterial.

MR. MERCHANT: Exception.

THE COURT: That card is not admissible in evidence and I will not allow the contents in evidence by indirection.

MR. McDONALD: May I see the card?

MR. MERCHANT: Is only marked for identification.

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THE COURT: The People have a right to examine anything you show this witness. If it is shown to the witness it must be shown to the District Attorney also upon his request. Any paper that is shown to any witness must be shown to the opposing counsel.

Q Did the defendant on the 20th of August, 1917, pay you any money for professional services? A He did.

Q After looking at the card, Defendant's Exhibit C for identification are you prepared to say that it was on that date, August 20th, and at the time at which you testify between eight and eight-thirty P.M.

THE COURT: I will exclude that question. He has not stated that he needed any refreshing of his recollection.

BY THE COURT:

Q You remember this without your card, do you not?

A. Yes, I do.

MR. MERCHANT: Your witness.

THE COURT: If he needs the paper to refresh his recollection he may refresh it, but his memory is perfect on the subject, I understand.

BY THE COURT:

Q Isn't it? A Yes sir.

CROSS EXAMINATION BY MR. McDONALD:

Q Whatever days did he see you? A On the first day he came, August 13th.

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Q What other days? A August 20th.

Q What other days? A That was all.

Q What time did he come there? A About 8 o'clock.

Q On the 13th of August? A I don't remember on the 13th of August, what time it was.

Q You remember the 20th? A I do.

Q What time did he come on the 27th of August? A He did not come on the 27th of August.

Q What time did he come on the 3rd of September?
A He did not come on the 3rd of September.

Q On the 10th? A He did not come then.

THE COURT: If you refer to part of the card I will let it all in evidence. It is proper to admit it on cross examination, but the witness cannot corroborate himself any any writing of his own. That is an elementary principle. He may refresh his recollection, but if you cross-examine him about it, if part of it goes in it will all go in. You have a right to cross-examine on it if you wish to.

Q What arrangement did you make with him? A In price?

Q Yes. A \$3 per week.

Q How often used he to come? A Come every day.

Q When was that arrangement made? A On the 13th of August.

Q Did he come every day? A He came every day.

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Q For how long? A Until the 20th of August inclusive.

Q Did he pay you anything then? A He did.

Q On the 13th of August? A On the 20th of August.

Q Did he pay you anything on the 13th of August?

A He did.

Q What did he pay you then? A \$3.

Q Take a look at this card. When did you put those red ink marks on there? A I did not put those marks on.

MR. MERCHANT: You can put the card in evidence.

MR. McDONALD: I will offer it in evidence.

Card marked People's Exhibit 6 in evidence.

A Those were not put on by me but by my clerk.

Q When were they put on? A 20th of August.

Q Why weren't they put on on the 13th of August? A Because I made the price on the 13th at \$3 a week.

Q On the 13th of August? A Yes, and then when he came around on the 20th of August my clerk he filled that in.

Q Do you know when your clerk filled these red ink marks in on the card? A I don't know when.

Q You say you did not fill them in? A I did not.

Q Did you put these pencil marks on it? A I put just \$3 per week on there.

Q What does that mean (indicating)? A Receipts when due.

Q Is it your custom to put down four weeks ahead?

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A We do that sometimes.

Q Do you know whether that writing was put down on the 20th of August? A I don't know that.

Q You did not mark anything on this card at all in the red writing? A Just the \$3 per week.

Q That is in black ink. A That was made on the 13th of August.

Q Do you have any other cards or accounts with you?

A No sir.

Q Do you write the history of the case? A I did not.

Q Where was the history from this card received?

A My clerk wrote the history, I dictated it.

Q What did you do on this card? A I wrote down the \$3 per week when I received the first payment.

Q Is that all you put down? A Yes sir.

Q Just the \$3 a week? A Yes sir.

Q Did you write Charles Rossi's name? A No, I dictated that to my clerk.

Q You wanted to be sure about the \$3 a week? A When I received the \$3 I marked down \$3 a week so as to be sure.

Q On this card? A Yes.

Q And then you handed it to your clerk? A I took the money.

Q You handed the card to your clerk? A I put the card into the receptacle where I keep them.

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Q What did you treat him for? A Chronic gonorrhoea

Q What time did Rossi come in on the 14th of August?

A I don't remember that.

Q What time did he come in on the 15th of August? A
I don't remember? A

Q What time did he come in on the 16th? A I don't remember.

Q Was it night or morning? A In the evening.

Q What are your offices hours? A From one to eight.

Q One to eight at night? A From one P.M. to eight
P.M.

Q What time was it he came in on the 13th? A I
don't remember?

Q On the 16th? I A I don't remember.

Q On the 17th? A I don't remember.

Q What time on the 18th? A I don't remember.

Q Did he come in on the 18th? A I don't remember.

Q Did he come in on the 19th? A I don't remember that

Q Did he come in on the 14th? A I don't remember.

Q Have you seen him since he was indicted? A Yes,
I treated him lately.

Q He was in your office when? A About ten days ago.

Q Did you make out a new card for him? A No.

Q There is no record here is there? A On that card,
no, there is no record.

Q Have you any record of his recent visits? A I don't
think we have any.

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Q Do you know whether you have or not? A I have not looked it up, I am not positive.

Q It would be under Rossi, Wouldn't? A Yes.

Q That was the name he gave you on the 13th of August?
A Yes sir.

Q What address did he give you? A Somewheres around my neighborhood, I don't remember.

BY THE COURT:

Q What is your neighborhood? A 47th Street, No. 75 West.

BY MR. MCDONALD:

Q Were you treating him under the old agreement?
A At the same price.

Q \$3 a week? A Yes.

Q How much did he pay you then, lately? A For three or four weeks, \$3 a week.

Q When did he first pay you \$3 a week under the second period of the visits? A About four weeks.

Q When did he start in? A About five or six weeks ago.

BY THE COURT:

Q But you say you have no record of it. A We did not keep a record of the last eight, because we were not sure how long he was going to be treated; maybe for a few days and maybe a week or two.

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Q You have a card for all your clients? A Yes.

BY MR. MCDONALD:

Q You did not keep a record of the last one? A I may have it, if I look it up, I might come across it.

Q You did not look up for the entire record of Rossi? A I was supposed to bring this record to the District Attorney, Mr. Brothers. That is why I got it.

Q Why didn't you bring it to Mr. Brothers? A I did bring it. That is I gave it to counsel.

Q Who? A Counselor Merchant.

Q When did you give it to counsellor Merchant? A When I was called down here a few weeks ago.

Q Did you give it to Mr. Merchant to give to Mr. Brothers? A Yes, Mr. Brothers asked me whether I would do him a favor and produce the card.

Q Why didn't you? A I did.

Q You did not give it to Mr. Brothers. A It was arranged through the counsel Mr. Merchant, to produce the card.

Q Did you arrange with Mr. Merchant to give it to Assistant District Attorney Brothers? A I arranged with Mr. Brothers to give it to him, to give it through counsel, to produce the card.

BY THE COURT:

Q Did you arrange it with Mr. Brothers? A Yes.

Q You told Mr. Brothers you would send it down by Mr. Merchant? A Yes.

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Q Is that it? A Yes sir.

BY MR. McDONALD:

Q And you say you have not looked for the other card?

A No.

Q Will you look for it? A I will.

Q And bring it down? A I will, if I find it.

Q Suppose you come back anyway and let us know whether you have it or not? A I will do that.

Q Why did you wait until 8:30 on the night of the 20th of August? A I waited until 8 o'clock, When I was closing up and washing my hands, Rossi came in and I told him the next time if he comes in so late I would not treat him anymore, because it does not pay me to charge a man just \$3 a week and wait for him until after 8 o'clock.

Q You did not know he was coming that night? A Well, I was just closing up, washing my hands and he came in. That is how I remember about what time he did come in, because I remembered telling him that if he doesn't come in the next time until as late as he did then, that I would not treat him anymore.

Q What time did your last patient leave before 8 o'clock that night? A I don't remember.

Q Don't you wash your hands after you treat each patient? A Yes. But then I washed up and put on my coat and turned off the light.

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BY THE COURT:

Q How long have you known Rossi? A Just from the 13th of August, I never saw him before.

Q He was not any special patient of yours? A He was recommended through another patient.

BY MR MERCHANT:

Q These cards you keep in the ordinary course of business, card People's Exhibit 6? A Yes sir.

Q Did you give Rossi a receipt since December first?
A Yes.

Q As a matter of fact, you brought this card to me at my request, or sent it to me? A Through the request of Assistant District Attorney Brothers, through you.

Q That is, you never spoke to Mr. Brothers directly about it, but you spoke to Mr. Merchant? A I spoke directly to Mr. Brothers in this building somewhere.

Q And at my request you came down and spoke to Mr. Brothers and told him that Rossi had been to your office that night? A Yes.

Q When was that? A Several weeks ago.

Q Who first spoke to you about whether Rossi was at your office that night or not? A When I was called down here.

BY THE COURT:

Q You have been a doctor many years? A Yes. 13.

Q Where were you educated? A In this country.

Q What college? A Physicians and Surgeons, Columbia

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University.

Q A graduate from Columbia? A Yes.

Q What college did you go to before you went to medical college? A I went to high school.

Q You are a regular graduate of the P. & S. ? Yes sir.

Q Sure? A Positive.

Q And you have been practicing in New York 13 years you say? A Yes.

Q I ask you a very plain question. I ask you who first spoke to you about Rossi's whereabouts on the 20th of August? A The Assistant District Attorney.

Q How did the Assistant District Attorney know that you knew where he was on the 20th of August? A When I was called down to the District Attorney's.

Q Do you mean to say no one had spoken to you about this case until you were called down by the District Attorney? A I heard about the arrest.

Q He was the first one you heard about it from or who first spoke to you? A Some little boys around there.

Q Who were the boys that were around there? A There was a fellow named John.

Q John what? A John Garafelos. I don't remember the others.

Q Have you ever been a witness before in a criminal case? A Civil cases but not in criminal cases.

Q In a criminal case? A No, I don't remember that.

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It may have been quite a few years ago, not lately.

Q You ought to remember. You have been practicing
an
13 years. It is quite/important event in your life to
be here? A Positively.

Q We want your best recollection and we want the
truth. You understand I am not making any suggestions
not to tell the truth but we want to know how this case
was first called to your attention? A Some of the boys
came up and told me that Rossi was arrested.

Q When was that? A That was several days after the
20th.

Q Did that interest you? A It did.

Q Did they tell you what he was charged with? A
That he was arrested for some crime committed. I don't re-
member the case exactly, that Rossi was arrested on some
murder committed or something of that sort.

Q Some trifling thing of that kind? A A serious
matter.

Q But it made no impression on you? You don't
know what the crime was? A No, they themselves didn't
know.

Q How did they come to talk to you about it? A This
John Garafelos, he came up. He was up there practically
every day.

Q What did he say to you about the case? A He said

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Charley Rossi was arrested and held for some crime, I don't know what just. That is about all as far as I remember.

Q Was anything said about your connection with Rossi at that time? A He was a patient. That is about all I know.

Q Did they tell you the details of the crime as to the time when it was committed? A No.

Q Who first suggested that you should be a witness in this case, or to see the District Attorney? A The counsel sent me up.

Q Which counsel? A Counsellor Merchant;

Q You went to see Counsellor Merchant? A I never seen Counsellor Merchant until I met him in the District Attorney's office in this building.

Q Somebody purporting to come from the Counsellor came to see you? A Yes.

Q Who was that came from the Counsellor, or said he came from the Counsellor? A I don't remember, I never saw the party. My clerk saw the party and he told me.

Q He told you what, your clerk? A That they wanted me in reference to the trial of Rossi.

Q That who wanted you? A That the lawyer wanted me.

Q That Rossi's lawyer wanted you? A Yes.

Q When was that? A I don't remember.

Q It was not yesterday, was it? A No.

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Q Was it a week ago? A That must have been about six or seven weeks ago.

Q That was the first time it was ever suggested to you that you might have to be a witness? A Yes.

Q Was that before this talk about Mr. Brothers or after? A That was before. That is I was told that they wanted me. I was not in the office at the time.

Q But you went down to see Mr. Merchant? A No, I never saw Mr. Merchant until I met him in the District Attorney's office.

Q After this talk about your clerk telling you that a message had been sent to you, didn't you do anything at all, A No, I was not positive where to go or what to do.

Q Then you heard again? A Yes.

Q How did you hear the second time? A A young lady came up to see me.

Q What was her name? A I don't know. She told me that Mr. Merchant would like to see me down at the assistant District Attorney Brothers' office.

Q She did not intimate to you anything to you about the nature of the communications you were to make? A No, she simply said the District Attorney wanted me to come down to testify.

Q Now as I understand, it you remember distinctly now on the 20th of August dictating these entries to your clerk? A Which part?

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Q The entry concerning the 20th? A The 20th; the card will show.

Q You said you did not need anything to refresh your recollection at all and you needed no card or anything else, is that so? A Yes.

Q Do I understand you to say that your recollection of the visit of this man is so clear that you remember every detail of it? A Yes, I remember it on Monday night.

Q It happened on August 20th? A Yes, Monday night.

Q But that is the only visit of which you can give any details? A As soon as I heard of this arrest my memory kind of came back to the last day that I saw him. I even passed the remark, "Rossi was only in to see us a few days ago in the office." and we were wondering how he did not show up after the 20th and my memory came back to the 20th when I heard of the arrest.

BY MR. McDONALD:

Q But could not that have been on the 19th of August?

A No, that was the 20th of August, because that is the date I received the \$3.

Q But you did not make any entry of having received the \$3. A I received the \$3 in person and the clerk put it down on the card whatever it is.

BY THE COURT:

Q That is not your handwriting? A No. That is his.

Q You do not know when he made the entry? A As a rule --

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Q I am not speaking about the rule. Are you willing to swear to the jury that you saw him make that entry on the 20th? A No.

Q But you do remember all the other things you told us?
A Yes.

BY MR. McDONALD:

Q What is the name of your clerk? A Mr. George Murphy.

Q Is he supposed to be in the office? A Yes sir.

Q All day? A Most of the time. He does the writing and he does all assisting. taking charge of the telephone he acts as an interpreter.

Q Did the defendant give the name of Charley Young, or did you know him as Charley Young? A During the time I was treating him I heard the name Charley Young passed.
BY THE COURT.

Q What do you mean by "passed"? A The name was brought up, of Charley Young.

Q While you were treating him? A Yes.

Q How do you mean? A A friend of his came up with him, and he passed the remark about the name, of Charley Young.

Q You never had any friends of his present while you were treating him; what kind of treatment is you give him? A I gave him wash outs and electrical treatment for the rectum.

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Q You did not have any of his friends present while that operation was going on? A They were in the reception room.

Q You mean you heard some one call him Charley Young?
A Yes, that is it.

Q But had written down Charley Rossi? A My clerk did.

MR. McDONALD: That is all.

BY MR. MERCHANT:

Q You knew him by the name of Charley Rossi? A Yes.

Q You said you were a graduate of the P. & S., Columbia? That is Columbia University medical school? A Yes sir.

Q And after looking at this card, People's Exhibit 6 in evidence, you are able to say it was that day, August 20th that he was there? A Yes sir.

Q After looking at this card? A Irrespective of the card.

MR. MERCHANT: That is all.

S I D N E Y R. L A S H, of 51 Chambers Street, a witness called on behalf of the Defendant, being duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. MERCHANT:

Q Where do you live? A I live at 10 Pinehurst Avenue.

Q You are attorney and counsellor of law of this State?

A Yes sir, I am.

Q You know the defendant Charles Rossi? A Well, I

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don't know what you mean by knowing him.

Q You know him by sight? A Yes.

Q Do you know him to speak to? A Yes sir.

Q How long have you known him? A Well, I should say:-
I was introduced to him, I think, in June of 1916.

Q And from June, 1916, until August, 1917, did you see him from time to time? A I could not say that I said. I remember seeing him at Times Square one day, to the west of the Times Square building. but I did not speak to him.

Q However in the month of August, 1917, you knew him by sight, did you not? A Yes sir.

Q You are not particularly friendly, are you?

Objected to and objection overruled.

Q You are not a particular friend of his? A No, I am not. I have reason to be otherwise.

Q Do you recall seeing Rossi after six o'clock at night one ~~evening~~ during the latter part of August, 1917? A Yes, I do.

Q Could you, without making a legal and particular investigation, say what particular date in August that was? A Do you mean could I now?

Q I mean could you have done it when I first telephoned you about it? A No, I could not place the date.

Q Since then have you made or caused that examination to be made? A At the instigation of your office.

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Q Since then have you made or caused that examination to be made? A I did not cause it to be made. Mr. Merchant caused it.

Q Well, has such investigation been made? A Yes.

Q Are you now prepared to say on what day or what evening you saw Rossi? A Basing my testimony entirely upon the examination of the record.

Q Who made that examination? A My cousin.

Q What is his name? A Ralph Lauer.

Q Will you say what time of the evening it was that you saw *Rossie* on this evening you speak of? A That I could not do, with any definiteness. I can place it approximately.

Q Approximately at what time? A Well, I should say anywhere from 8:10 to 8:30. I would not want to place it any closer than that. It might be a little earlier or a little later than that.

Q Would you say some time then between 8 and a quarter to nine? A Yes, that would be reasonable.

Q What evening was that? A It was Monday evening, August 20th, 1917.

Q Where did you see him? A About, I should say, about from 90 to 100 Street, east of Broadway on the southerly side of 46th Street.

MR. MERCHANT: Your witness.

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CROSS EXAMINATION BY MR. McDONALD:

Q How many times did you see the defendant here?

A I don't remember seeing him but twice other than the night in question.

Q When was the first time? A I tried a case I think it was in June, 1916, in Special Sessions, Part VI. That is, I intended to try it but pleaded my man guilty.

Q Never mind that; when? A I think it was June, 1916. I can refresh my recollection and place it definitely as to the date if you let me examine the records of Special Sessions, but in the month of June, 1916.

Q You did not have to look up the records before you came here? A I did not. I have not given this case any time. There is no reason why I should, I am not interested in it.

THE COURT: Please do not answer the attorney like that. Just answer questions.

BY THE COURT:

Q You did not look it up? A I did not look it up.

Q Didn't you know you would be asked about it? A I did not think I would be asked that question.

Q Did you know what you would testify to here? A Yes, but I did not think I would be asked that particular question.

BY MR. McDONALD:

Q You say you saw him on the second occasion where?

A On the westerly side of the Times Square building.

Q When? A I don't remember when; I have not the slight-

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est recollection.

Q Was it after the trial of the case in Special Sessions? A Yes, some months after.

Q Did you have any conversation with him? A I did not.

Q Did you have any conversation with him when you met him in June? 1916? A Yes, I did.

Q You say you saw him again on the 20th of August?

A Yes.

Q About what time? A Well, I should judge it was anywhere from 8 to 8:10 to 8:30.

Q What time did you leave your office that day? A About a quarter to five.

Q Where did you go? A I went up to 36th Street.

Q Where did you go in 36th Street? A I visited a club there.

Q Then after that how long did you remain in the club?

A I had my dinner there; about 7 o'clock.

Q Then what? A When I finished dinner I walked westerly to the easterly side of Broadway, up Broadway to 46th Street and saw a client.

Q What is the name of the man you saw at 46th Street?

A Felix Patridito. He is a client of mine. I defended him in a case in Nassau County.

Q Patridito? A Patridito (spelling).

Q What time did you finish dinner? A Well, I should say approximately half-past seven or twenty-five minutes of

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eight.

Q You left your office at a quarter to five? A Yes.

Q And went to this club? A Yes.

Q And you remained there; you were not eating there all the time? A I was not.

Q You say you finished your dinner about time? A Just rudely estimating, I don't know, it takes me at least half an hour to eat.

Q What was it the defendant said to you on the 20th of August? A He did not say anything to me.

Q Did he pass you? A I passed him.

Q As you just left the barber? A I had not been in there yet.

Q Were you talking to him? A To whom?

Q To the barber? A Yes sir.

Q Where? A In his barber-shop, after I passed Young.

BY THE COURT:

Q This Patridito is a barber? A He runs a barber shop at 46th Street. I defended him.

Q What number in 46th Street is that? A I think 165 West 46th, just right east of James' drug store.

Q Near the Remington Hotel; where is the Remington Hotel? A I think that is east of that.

Q You know that neighborhood pretty well? A No, but I know the Remington Hotel because I happened to be attorney in the case of Boudoin against Bouroin, the famous di-

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voice case and the co-respondent was caught in that hotel.
That is the reason I know.

Q This barber you defended in Nassau County? A Yes

Q That is why you went there to get a shave? A No sir.

BY MR. McDONALD:

Q You say you had not gone into the barber shop? A
Not yet.

Q But that the defendant passed you? A No, he did not
pass me.

Q You passed him? A Yes. He was stationary. He
was standing still opposite the barber shop, on the other
side of the street.

Q And this was at what time? A I fixed it at about
8 o'clock or 10 minutes after. I could not fix the time
with any definiteness.

Q The second time you met him was in the day time or
in the night time? A I think it was a Saturday afternoon.
I am not sure.

Q Did the defendant speak to you on the night of August
20th? A No, he did not. He has a good reason for not.

Q I did not ask you that.

THE COURT: I told you to answer questions.

BY THE COURT:

Q You did not speak to him and he did not speak to
you? A No sir.

Q You just passed on and went to the barber shop? A Yes.

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Q And you are willing to swear now you saw this man and not anyone else at that place and at that time? A I do not see how it could be anybody else.

BY MR. McDONALD:

Q Who did you speak to about this case? A A woman who came to my office and said she was the wife of the defendant.

Q When? A Sometime after he had been arrested and bail fixed.

Q When was that? A I don't remember the date.

MR. McDONALD: That is all.

BY MR. MERCHANT:

Q I also spoke to you afterwards about it? A The first time I ever spoke to you, Mr. Merchant, about it was a day or so ago.

MR. MERCHANT: That is all.

THE WITNESS: Your Honor, may I speak to counsel before he withdraws me as a witness? I think some things should be explained here by documentary proof in justice to the defendant and to myself.

THE COURT: Counsel understands his business. He may recall you if necessary.

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BERNARD BUSHMAN, of 162 West 46th Street, called
as a witness in behalf of the defendant, being duly
sworn, testified as follows:

DIRECT EXAMINATION BY MR. MERCHANT:

Q Mr. Bushman, where do you live? A 162 West 46th Street.

Q What is your business? A Automobile renting.

Q Where is your place of business? A 162 West 46th Street.

Q How near to the Remington Hotel is that? A Well, ten
doors east.

Q On the other side of the street? A Yes sir.

BY THE COURT:

Q That is, the Remington Hotel is toward the east? A Yes.

Q They said it was 129; you are nearer Broadway? A Yes.

Q And the other is nearer 6th Avenue? A Yes, and on
the other side.

BY MR. MERCHANT:

Q Do you know the defendant Charles Rossi? A Yes sir.

Q By the way, you know this man, Mr. Lash, who just
left the stand? A No sir.

Q Or Dr. Cohen, who has testified here? A No sir.

Q How long have you known Rossi? A I suppose I spoke
to him a half a dozen times in my life.

Q How long; when did you first see him? A Around the
3rd or 4th of August, 1917.

Q Do you recall having seen Rossi on August 20th, 1917?
A Yes sir.

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Q Do you recall that of your own independent recollection or do you have to have some papers to refresh your recollection or other memoranda to fix the date for you? A I have a record to fix the date.

Q At what time was it; in the day or evening, that you saw Rossi on August 20th, 1917?

THE COURT: You have a right to exhaust his recollection before you make use of any papers. A witness may swear after looking at a paper that his recollection is refreshed. The record we are not concerned with at all.

BY THE COURT:

Q You say you saw him on the 20th of August? A Yes sir.

Q You remember that now? A Yes sir, I do.

Q Without any aid? A Without the aid of anything.

Q What time on the 20th of August did you see him?

A About twenty-five or twenty minutes to nine.

BY MR. MERCHANT:

Q In the afternoon or in the morning? A In the evening.

Q Where did you see him? A Right in front of my office door.

Q Did you have any talk with him at that time? A Yes.

Q Did you notice where he was coming from? A He came from the Auto Renting office.

Q Did you see where he went? A He went towards 6th Avenue, that is all.

Q How long were you talking to him? A Two minutes, possi-

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bly a minute.

Q What did you say to him and what did he say to you?

MR. McDONALD: Objected to as incompetent, irrelevant and immaterial.

THE COURT: I will allow it.

A I told him he lost a call and that I took the call.

Q Do you mean somebody wanted to rent his automobile?

A Yes.

Q You knew that he had an automobile and that he rented it? A Yes.

Q Go ahead? A I said, "Charley, there was a customer here looking for your car and I could not see you or could not see your car, so I took the call". He said, "Oh, that is all right", and walked towards 6th Avenue. That is all I know about it. I marked the call in the book, which I do in every other call. They are all numbered.

Q Do you put down in the book the day and hour? A Yes sir. I rent them out by the hour and that is why I must have the time.

Q You say you have a memorandum of that?

THE COURT: I will exclude that question.

MR. MERCHANT: I will try to get it out properly.

THE COURT: You cannot refer to any memorandum.

His entries are no evidence. On cross-examination that can be brought out.

Q Well, you never had any social relations with Rossi; I

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mean you never have been a particular friend of his or anything? A No. He came into the office in the early part of August and told me he had a car and sometimes he has extra calls to give away and if I would take them. I said I would gladly take them. That is why I am in business. That is the way I came to meet him.

MR. MERCHANT: Your witness.

CROSS-EXAMINATION BY MR. McDONALD:

Q How many cars have you? A Two running now. I had six.

Q How many did you have on August 20th, 1917? A Two.

Q You receive calls right along, don't you, for those cars? A Yes.

Q And you make a record of each call that you receive?
A Yes.

Q At the time you saw him on the 20th of August you say it was about what time? A Twenty-five or twenty minutes of nine.

Q When did you see him before the 20th of August?
A Possibly four or five days before, I don't know.

Q Where did you see him? A Passing the office, to say "Hello", or something like that.

Q Do you know about what time of the day or night it was?
A No, I do not.

Q How often did you see him? A I should judge about six or seven times in my life.

BY THE COURT:

Q Well, prior to the 20th of August about how often?

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A Say about six times prior to the 20th.

Q And since then have you seen him often? A Since then he came to ask me to be a witness.

BY MR. McDONALD:

Q You say you have not, since he was indicted on this charge? A He was in the office and asked me would I come down here, so I told him I was busy. Then they gave me a summons to come down.

Q You looked up the 20th of August? A Yes, and I offered it to the District Attorney's office.

Q To whom? A One of the District Attorneys.

Q What was the name of the call? A I don't know the party's name, so I marked "C. Young" on the book.

Q Did you do the marking? A Yes.

Q Did you receive a call any other time that night?
A Oh, I judge I received half a dozen calls that night.

Q Did you send your cars out for those calls? A Yes.

Q At the time you saw the defendant, by the way, what name did you know him by? A Charley Young.

Q Did you ever know him under the name of Rossi? A No, I did not. I didn't know nothing about him until after he was arrested.

Q You know him since August? A Yes.

BY THE COURT:

Q How many calls have you in your book, "C. Young", prior to August 20th? A I have one.

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Q One other? A One other call he gave me.

Q When was that? A 12th of August.

Q He did not give you this one? A His customer asked for him.

Q Some one over the phone asked for Charley Young.

A They came to the office.

Q What did they say? A They said, "Is Charley Young's car here?" I said, "No, I don't see his car."

Q Was his car ever in your place? A No.

Q He did not store his car in your place? A No.

Q Where was his place for doing business? A I don't know.

Q But some persons that you don't know came to your place and asked if Charley Young's car was there? A Yes, a lady.

Q And when Charley Young's car was not there they took one of yours? A That is right.

Q Was that the first or last call you had that night?

A Well, I could not say. Possibly it was in between, it was possibly the third call that night.

Q What bargain did you make with the lady that came there? A Five hours for \$15. to Coney Island.

Q She wanted to go to Coney Island? A To the Hotel Biltmore first and from there to Coney Island, so I said five hours, \$15.

Q And you collected your \$15? A Yes, and sent out

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the car. The driver collected the \$15.

Q And your car came back? A Yes.

BY MR. McDONALD:

Q Do you know a young man that hangs out around 46th Street by the name of Spanish Onion? A No sir.

Q You say you talked to Rossi and then he went towards Sixth Avenue? A Yes sir.

Q Did you see him go to an office across there, across the street, to Shelly? A I call him. He was in the street and I called him over and told him he lost a call.

Q It was not the other way, about the Shelly people calling to him while he was talking to you? A I don't know that.

Q Did Shelly people call to the defendant Rossi while he was talking to you and say there was a telephone call for him? A I did not see that.

Q If it happened while he was talking to you, you would know about it? A Surely I would.

Q You say that after the conversation that you had with Rossi, Rossi went towards Sixth Avenue? A Yes sir.

Q He did not go across the street to the Shelly automobile renting people? A No sir, he did not.

BY THE COURT:

Q Is Shelly's an automobile renting place, too?
A Yes, right opposite my office.

Q A rival in business? A Well, --

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