

of violence? A No.

EDWARD H. CRIMES, called as a witness, being first duly sworn, testified as follows:

BY COMMISSIONER MONTROSS:

Q What is your name? A Edward H. Crimes.

Q Where do you live? A 518 East 83rd Street.

Q Are you acquainted with the witness who just testified? Yes, sir.

Q Now, how long have you known him? A I made his acquaintance in the month of June, 1918, in France. His company and my company were in the same billet.

Q And are you acquainted with the defendant? A Yes, sir.

Q Where did you first meet him? A In the same place around the same time.

Q How often did you see him while you were in the service? A For the month of June, for the month of July, and I would see him on an average, I would say - I would see him passing every day; sometimes three or four times a day.

Q In the service that you were both engaged, did you have occasion to meet each other? A Yes, sir.

Q And you had occasion to observe the defendant during that time? A Yes, sir.

Q Notice anything particular about his action? A Well,

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I would see him act very funny and talk funny. I don't know; he was always hollering the engineers were no good, and sometimes he would say he was a doctor. I had the "flu" one time and he told me what was good for me. He would tell everybody what was good for a clapp, and all that kind of stuff.

Q And this that you noticed about, what you testified, was during the time he was in a normal condition? A Well, at that time he was an orderly for a captain and he could go to town pretty nearly all the time. He was pretty well. He was drinking pretty heavily at that time.

Q Could you say that he drank most of the time? A During the months of June and July, 1918, I saw him go down the road with a bag and I would say, "Where are you going?" and he would say, "I am going down with the Captain's laundry." And I said, "You are going every day to the laundry," and he wouldn't come back until six or seven o'clock.

Q Usually was he under the influence of liquor when he came back? A He wouldn't be staggering, but he would be taking the regular time. He would tell you what is good for a clapp, and all that stuff, and I thought it was liquor that done it.

Q Were you present at the time he was injured? A No, sir; I wasn't.

Q Did you know that he had been? A No, sir; I didn't

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until after I heard the testimony.

Q He disappeared from the service and you didn't see him any more? A I left the regiment in the month of August, 1918, with the "flu" and I went to the hospital, and I never returned to it, and that was the last I saw of him.

Q And when did you next see him? A Just ten minutes ago.

Q You didn't see him at the dinner that the other witness testified to? A No, sir; I didn't attend to that.

Q Have you heard anything about him from the time he left France and the time you saw him to-day? A No, sir; I haven't.

Q Did you ever see him in actual service in France? A No, I didn't. I only made his acquaintance when we were behind the lines in June, 1918. I didn't know him before that.

FRANK UPTON, called as a witness, being first duly sworn, testified as follows:

BY COMMISSIONER MONTROSS:

Q What is your name? A Frank Upton, 26th Precinct, Shield No. 6631.

Q Where do you reside? A 252 West 22nd Street, New York City.

Q You are connected with the Police Department? A Yes, sir.

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Q Have you ever seen this defendant before? A Yes, sir.

Q Where? A I think it was in 1914 I arrested the defendant on 15th Street and Irving Place - between Irving Place and 4th Avenue on the complaint of two prostitutes who accused him of having robbed them of three dollars. The three dollars was in the defendant's hand.

Q When you arrested him? A Yes, sir. He claimed it was his own money that he gave to them. He gave them five dollars, to one of the women, and he was to give the other one two, and she tried to hold on to the whole five, and he grabbed his three. Of course, the woman made a complaint against him, and I had nothing to do, since the charge was a felony, but to make a prisoner of him, and the two other women didn't show up in the court and he was discharged.

The next time I saw the defendant, Jensen, was in Fort Totten when we were training to go over seas. I recognized him. I hardly think he recognized me. I didn't say anything to him about it.

On the 13th of July, 1917, we were preparing to sail for France. The next day orders were issued by Colonel McKinstry, that none of the pets that we had in the camp should be carried over seas and no one should take any of the mutts we had with us. I observed the defendant Jensen going up the gang-plank, Steamship Carpatha, with a bundle under his arm. He had the biggest bundle on the ship.

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We were two days out to sea when a dog walked out and the Colonel saw him, and he said, "Who brought that aboard the ship?" So we had to get a stone and throw it overboard, and he said: "If you got to throw the dog overboard, you got to throw Jensen over too."

He was the butt of all jokes aboard the ship, and in France, and he on post and come back soused, and do funny things and crazy things.

I observed him at tin call in the end of August, 1917. One day there was an air battle overhead, and all hands got orders from the British Major to take cover, and the defendant deliberately went out into the open with a rifle looking to shoot the Dutchman in the air contrary to orders. He was required to do what he was told, and he wanted to go out and knock some of them off.

I was taken prisoner myself in the vicinity of Cambrai, in 1917, and hadn't seen the defendant until the morning of his arrest. I was at the line-up in Police Headquarters with the man whom I arrested for a felony and I recognized the defendant in the line charged with burglary. I told the inspector about it. I felt sorry for him. "He is a nut pure and simple when he gets booze under his belt, and I observed him a number of times in France. In that condition he would do funny things. He would do things that he wasn't supposed to do; not in disobedience of orders. He was a good soldier, but he was slovenly

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about his person and he came into the camp with a lot of cognac under his belt.

Q When he wasn't drinking, how did he appear to be?

A Quite normal; yes, sir.

Q Were you intimately associated with him in France to know whether he was in any sort of service that required a display of courage at any time? A Why, yes; several times. We were in the engineer's outfit constructing and repairing a standard and narrow gauge railway immediately behind the lines and in the vicinity of St. Quentin, Epic and Harjekar, to follow the bridge right up, and I saw the defendant here acting in what you would call extraordinary courage, but damn foolishness, when he should be under cover and when we would be inside of a barrage.

Q Did you see him the day he was injured? A No; I was taken prisoner by the Germans in November, 1917, in the vicinity of Cambrai, and didn't see him until he was in the line-up.

I was at the dinner at the Pennsylvania, on or about the 20th of April. I also came over in the casualty ship, but I didn't see him at the Hotel Pennsylvania, and didn't see him until the morning of his arrest, when I saw him in the line-up at Police Headquarters.

BY COMMISSIONER STEVENS:

Q Did you have any talk with him at any time when you saw him in the line-up? A Yes, sir.

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Q How did he appear to you at that time? Was there any difference in his attitude? A In what respect?

Q In what you previously have known of him? A About the same. He looked as though he had been drinking. His breath was heavy, and I asked him if he was hitting it up again and he said yes, he was drunk last night and he was going down the street and he went and took a sleep, and he said some fellow came along and wanted to hit him, and when he came out the policeman arrested him.

BY COMMISSIONER MONTROSS:

Q When you saw him in the police court that morning, did you see him? A We were both in the patrol wagon going up to the 57th Street Court.

Q Did he recognize you at first? A No; I recognized him.

Q You spoke to him? A I spoke to him.

Q Called him by name? A Yes, sir.

Q What reply did he make? A Beg pardon?

Q What reply did he make when you called him by name?

A He started to cry and he said he brought disgrace on the old outfit and told me his trouble.

Q Did he recognize you as being with him in France? A Not at first. I said, "Don't you remember me?" and after awhile he said, "You are Upton. You are the cop that was in "B" Company." And I said, "Don't you remember me arresting you about four years ago?" and he said: "Oh, yes."

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Q What time was this? A About nine or half-past nine.

Q You didn't see him until you saw him in the wagon?

A I saw him at the line-up in the Police Headquarter's building.

Q You didn't see him in the cell? A No, sir.

Q Did you see him after he came out? A No, sir; I didn't.

Q How long did you talk to him altogether that morning? A All the way up in the patrol wagon from Police Headquarters to the Seventh Court, and in the Seventh Court I talked to him for quite a while.

Q Altogether how long would you say? A About an hour or so.

Q Did he tell you anything about any particular things that happened to him since he came back from France? A Not since he came back from France. He told me about being shot in the forehead in France.

Q What did he say about it? A He showed me where the wound was. The bullet wound went in there and came out over here (illustrating). That is about the only thing of consequence.

Q He didn't tell you of anything that happened since he came to this country? A No, he didn't; not that I recall.

Q Did he say where he was discharged from? A No, I didn't ask him. He told me that he came over in the casualty company.

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Q Did he say anything to you about having been robbed of any money after he got back home? A I really don't recall.

Q Did he say where he had been employed since he came back? A No; I didn't ask him.

Q He didn't say where he came from the day he was arrested? A He may have, but I don't recall it.

Q Have you heard anything from him between the time you got him in the Magistrates' Court and the time you got this subpoena to appear? A No, sir. I have spoken to Mr. O'Neill, in the Grand Jury Room, a couple of times, and he told me there was a Commission appointed to look out for Jensen's case.

Q You know that to be the case? A Yes, sir.

Q How did you know that? A Mr. O'Neill told me about that.

Q How did Mr. O'Neill know that you knew the defendant? A I think he read it in the newspaper. I assume that, because I was in the Grand Jury room a couple of days afterwards for a man I arrested for stealing an automobile, and he has known me for a good many years, and I think he said that he read the newspaper where I saw a man of mine in the line-up at Police Headquarters.

Q There was something published in the newspaper about the fact that you saw Jensen up in the Magistrates' Court?

A That I saw him in the line-up at Police Headquarters.

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Q That was in the newspaper? A Yes, sir.

Q And you knew the purpose of this Commission that was appointed by the Court? A Yes, sir; I did.

Q Did you come here to-day as a result of the subpoena that was handed to you? A Yes, sir; I have the subpoena in my pocket.

Q Are you acquainted with Major Drew? A Yes, sir.

Q Have you seen him since you saw the defendant in court? A No, sir; I haven't seen Major Drew since we had the dinner at the Pennsylvania Hotel.

Q Or heard from him? A No, sir.

Q Have you talked to anybody else, except Mr. O'Neill, about the case? A Not a soul.

BY COMMISSIONER STEVENS:

Q Have you ever, in your career as an officer, arrested any men who were found to be insane? A No, sir; this is the first one.

Q This is the first one? A This is the first one I have had any experience with of this kind.

Q In your previous knowledge of this man, Jensen, would you, from your lay standpoint, consider that he was in a perfectly normal condition? A I always considered him a nut. That was the consensus of opinion of the whole brigade.

Q In other words, he was eccentric? A Exactly; he wasn't only funny in his speech, but his manner in speech

and the boys kidded him.

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court afterwards, was there any exchange of names of persons or dates? A No, sir.

Q Did he mention any date or time, or names of any people he knew? A No, sir.

BY DEFENDANT'S ATTORNEY, MR. WEISSAGER:

Q Do you think they kidded him because he was a foreigner? A What explanation did he make at the time he was arrested? A No; not because he was a foreigner. He is a darn good soldier, but just through pure devilment and nothing else; he was in the Magistrates' Court at the time you arrested him. Just to have some one to pick on.

Q There was a complaint made by two prostitutes, but they didn't show up in court.

Q They didn't prosecute him? A Well, I don't know any

more than that he was a bit of a nut. And they used to kid him on that account. A Most every day.

Q You say you were in the same company? A I was in every day. A Yes, sir.

"B" Company and he was in "C". We were in the same brigade - battalion, I should say.

BY COMMISSIONER SILVERMAN:

Q During the conversation you had in the line-up, and in court afterwards, was there any exchange of names of persons or dates? A No, sir.

Q Did he mention any date or time, or names of any people he knew? A No, sir.

BY DEFENDANT'S ATTORNEY, MR. WEISSAGER:

Q What explanation did he make at the time he was arrested in the Magistrates' Court? At the time you arrested him? A There was a complaint made by two prostitutes, but they didn't show up in court.

Q They didn't prosecute him? A No.

Q You have seen the defendant often in France? A Most every day.

Q Every day? A Yes, sir.

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to a -

work was done.

Q There was no chance of being under the influence of cognac? A No, sir; he was erratic most of the time. He

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Q Spoke to him? A Yes, sir.

Q You knew him before he reached France? A I arrested him myself four years ago.

Q These gentlemen here asked you - they are not bound by your opinion, but at the same time we want to know what you considered as to his mental capacity, whether he knew right and wrong. A He wouldn't know anything about right and wrong when he has booze in him, or drinks cognac; otherwise, I am of the opinion that he was quite normal. He was a good soldier, but when he got to drinking, he got careless.

Q In the army in France he didn't have an opportunity to drink cognac very often? A Every night after a day's work was done.

Q There was no chance of being under the influence of cognac? A No, sir; he was erratic most of the time. He wanted to show off his bravery.

Q And you considered it foolish? A Yes, sir.

Q If he was a man with better sense, he wouldn't do it? A Yes, sir. I didn't care about doing it.

Q It isn't the act of a normal person? You wouldn't do anything like that? A When you are under shell fire, you got to be under orders.

Q It isn't the act of a normal person? A I wouldn't consider it so when we got orders to get under cover we got under. That was a damn fool trick.

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Q You didn't know the condition of his wound in France?

A No, sir; I was taken prisoner before he was wounded.

ALBERT JENSEN, the Defendant, recalled, testified as follows:

BY COMMISSIONER MONTROSS:

Q Is that your bag lying over there? A Yes, sir.

Q Will you just get it? A I didn't look at it.

Q Get it and look at it. A (Defendant complies) Yes, sir.

Q The contents of it belong to you? A Yes, sir.

Q Just open it up. A (Defendant complies and takes out contents).

Q Look at your letters and see if you have any letters from anybody. A (Defendant complies).

BY DEFENDANT'S ATTORNEY, MR. WEISSAGER:

Q Were you in the army before? A I was five years in the U. S. Coast Guard, in Baltimore, Maryland.

Q Where were you stationed in Baltimore, Maryland? A At Baltimore.

Q Where? A It is called United States Apache. That is the name of the boat, United States Ship Apache.

Q You know where Fort McHenry down there is? A Yes, sir; we were close right over there.

Q About five years ago? A It is about six years now.

Q Did you ever complain about being sick or having

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headaches? A No; I was never sick in my life.

Q Was your memory good at that time? A Yes, I had a good memory always, but not as good as it used to be, but I can remember things now alright, but from the day I was wounded - the fellows in my company, I wouldn't remember their names very well. It is easy to explain that, because most of the time I wasn't with the men themselves. I was amongst the officers, and after I got wounded I have been away from them for about - almost ten months now, and haven't seen any of them, and while in France I was always called by short names, and that is why I don't remember their names. Frank Upton, and them names, I can remember very well.

Q Have you got any letter there that any one has written to you from France - one or two? A There are some here.

BY COMMISSIONER MONTROSS:

Q Who is this letter from? A From a girl in the United States. This is from a girl Elsie Elliott.

Q Where does she live? A In Washington Street, Baltimore.

Q Did you receive this while you were in France? A Yes, sir.

Q Have you heard from her since? A Not since I came back; no, sir.

Q Did you write to her? A Beg pardon?

BY COMMISSIONER SILVERMAN:

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Q Did you write to her since you came back? A No, sir; my eyes were very bad.

BY COMMISSIONER MONTROSS:

Q Have you got any other letters or cards from anybody else? A That's all, from the same party.

BY DEFENDANT'S ATTORNEY MR. WEISSAGER:

Q Didn't you tell me that the Major would come forward for you and intercede in your behalf? A Beg pardon?

Q You told me that the Major in your company would come here?

COMMISSIONER STEVENS: He was here.

BY COMMISSIONER MONTROSS:

Q Have you any other letters from anybody else? A Only army prints.

Q No other letters? A There are some here. That (indicating) is from the girl's brother.

Q Where does he live? A In Baltimore, the same place.

Q Lay those aside and see if you got any others. A No, sir.

Q Did you hear from anybody else while you were in France? A How do you mean?

Q By letters? Did you hear from anybody else while you were in France? A I got from my father and mother.

Q What did you do with those letters? A There are some of them thrown away. I had lots of letters but I lost a lot of them on the casualty ship, because I didn't pack

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my things.

Q Was there anybody else that you corresponded with while you were in France? A From the states here, sir?

Q Yes? A There was a girl in Baltimore besides that one, who used to write three or four times.

Q How long were you in New York before you enlisted? A I was three years; a little over three years.

Q You didn't meet anybody during that time that you corresponded with while you were in France? A No, sir.

Q Never got any letters from anybody else while you were in France? A No, sir.

Q Did you hear from your brother while you were in France? A Yes, sir; he is in Baltimore.

Q Are you a citizen of the United States? A I had my first papers taken out years ago; about seven.

Q And never got your last papers? A I asked for them. I asked them for my full paper, because I am going to war, and he said, "If you enlist you will come back and be a full citizen." That is what the officer told me. Whether that is correct or not, I don't know.

Q So far you have seen no papers and you are still a citizen of Sweden, is that right? A No; I am supposed to be an American, because I done five years with the U. S. Coast Guard, and I have enlisted and have taken out my first paper, and five years you are supposed to be a full citizen. I was going to get my full citizen paper, but was

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away and was detained in France and had no chance to get them. I came back now and I am entitled to get citizen papers at any time.

Q Where did you make your application for first papers? A My first papers I made out in Baltimore.

Q What court, do you know? A No; it is no court; it is City Hall.

BY DEFENDANT'S ATTORNEY, MR. WEISSAGER:

Q They make it either in the United States Court, or one of the city courts, or Court of Common Pleas? A I know there is a sign City Hall.

Q How long ago? A It is about going on eight years now.

Q Have you got your copy? A Have you got a copy? A I had it, but I lost all my papers, and my discharge papers from the first time, and I got shot and was wounded over in France and picked up. I had nothing left.

THE DEFENDANT: Can I say a few words? Are there any objections?

COMMISSIONER STEVENS: Yes.

THE DEFENDANT: I want to say, in regard to my case, about being insane. I would say, the day when I went out with a headache, I thought, as far as I remember, I was taking too much tablets, and I made a statement I took one drink and may possibly have taken more of brandy, and I think that affected me that day, but that wouldn't make

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me insane, because I know everything that is going on every day. I know I have been very sick in the hospital, and I hardly recall. I will be sorry if you will put me up as insane.

Q Have you sent word to your people about the trouble you were in? A No, sir.

Q They don't know the trouble you are in? A No, sir.

Q Your brother doesn't know anything about it? A No, sir.

Q Have you been home since you came to this country? A No, sir.

Q Do you suppose your people are willing to have you come home? A I was intending to go home, but I went back, but I lost my money, and I thought I would stay here another year and go home.

Q How do you mean you lost your money? A I went to the hotel the first day I came back and got discharged to sleep there.

Q Went where? A In the hotel, down at 20 Church Street and Eighth Avenue.

Q What happened there? A I went to sleep there and I locked the door and kept the key inside, and when I came up my money was gone, about two hundred and sixty dollars, and I went down and reported it to the detective in 23rd Street or 22nd Street.

Q Was the door unlocked? A I reported it to the

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Detective Bureau there that I was robbed of my money.

Q Was the door unlocked when you got up in the morning?

A No, sir; I left the key in the door.

Q Was it locked in the morning? A Yes, but I saw there were two doors and a room, and where the curtain was there was another door.

Q Was that one? A No, sir; that was locked.

Q Locked on the inside? A No; there was no key. The key was out.

Q Well, now, your father and mother are both living?

A Yes, sir.

Q What is your father's business now? A My father is a doctor.

Q A doctor? A Yes.

Q Is he a successful doctor? A I haven't seen my father for fifteen years. He was there when I was home.

Q You have heard from him at that time? A Yes, sir.

Q What did you hear from him as to his business? A Beg pardon?

Q What did you hear from him as to the condition of his business? A I asked him how he was getting along, and all the folks told me he was getting along fine.

Q What does your mother say about the way he is living?

A That he got along fine.

Q Is your father a man of means; has he got much money?

A I don't think he is a man of means, but he always had a fairly nice home.

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Q How big a home has he got? A When I left home I saw six rooms in it. I had my three sisters at home, and always had a girl there - a servant girl.

Q In the city? A Yes, sir.

Q Copenhagen? A Yes, sir.

Q Do you think your father and mother would be willing to have you go home? A Yes, sir.

Q Would they be willing to provide a home for you? A Yes, sir.

Q Do you think your father has means enough to afford to have you come home and live with him? A I can't say. I really don't know his condition right now, because changes have been made since I left on account of the war; so I don't know exactly how things are there.

Q Your sisters still live there? A Yes, sir.

Q Some of them married? A No, sir.

Q Are they all old enough to be married? A Well, there is one nineteen, one eighteen, one twenty and one twenty-one.

Q Has your brother been home since you have been here? A I don't know, sir. I haven't seen my brother or heard from him for about three years now. I don't know whether he went home while I was in France or not.

Q How old is your brother? A He is about thirty-four.

Q He wasn't in the army? A I beg pardon?

Q He wasn't in the army? A No, sir.

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The Commission thereupon adjourned the further hearing of the case to Wednesday, July 9th, 1919, at two-thirty o'clock, P. M., to meet in the Sheriff's Room, of the Criminal Courts' Building, 32 Franklin Street, Borough of Manhattan, New York City.

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New York, July 9th, 1919.

The Commission met pursuant to adjournment.

Present: Charles W. Stevens, M. D., and Samuel T. Silverman, Esq., Commissioners; William Perlmutter, representing the District Attorney's Office; and Albert Jensen, the Defendant.

MATHILDE DE RIVERA, called as a witness, being first duly sworn, testified as follows:

BY COMMISSIONER STEVENS:

Q What is your name? A Mathilde De Rivera.

Q Where do you live? A 65 Central Park, West.

Q You occupied an apartment on the ground floor there?

A Yes.

Q How long have you lived there? A Since last August.

Q Now, can you tell us, if anything, what extraordinarily happened on the 4th of May, 1919, in your apartment? A About the robbery? I forget the date. I don't remember whether it was in May or June. It was at one o'clock in the morning when a policeman rang my bell and I was asleep and he showed me a clock and asked me if it was my clock, and I recognized the clock, and he told me there was a burglary, and he wanted to see if there was an accomplice and, in the meantime, the watchman on the corner had chased the burglar, and he ran into the arms of the policeman. Of course, I didn't know about that. The policeman told me that. I was asleep.

Q So that you didn't know about his going into the house

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until awakened by the policeman? A Yes, and they had already arrested him and had him outside.

Q You saw this burglar at that time, did you? A No; not at that time; not that night. I saw him in court.

Q You saw him in court? A Yes, sir.

Q You didn't see him that night? A No, he was out in the street. Some other policeman had him, but I didn't see him.

Q Did he have anything besides the clock? A Yes, a fur - a neck-piece.

Q And that disappeared at the same time? A Yes; it was on a chair in that room.

Q Have you ever found that fur-piece? A No; and I went to a detective agency and they said they would look it up in the pawnshop, but they haven't found it.

Q It wasn't found to your knowledge on the prisoner? A No; and we looked around the court and around the neighborhood and it wasn't found.

Q Will you describe this clock to us? A Yes; it was an ordinary clock, about fifteen years old, and cost fifteen dollars many years ago. It wasn't valuable. It was an old clock.

Q How large? A A china clock.

Q China clock? A Yes.

Q Heavy? A No, not heavy.

Q How much do you think it weighed? A Three pounds.

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Q Three pounds? A Yes. The neck-piece cost seventy-five dollars.

Q Now, this clock you said weighed about three pounds?

A Yes.

Q It was easy to carry? A Yes.

Q In what condition was it in when you got it back? A It was smashed; broken.

Q Broken? A Yes. He threw it on the ground, you know, when the watchman chased him.

Q You didn't see the man at all all night? A No, I didn't see him.

Q You went to the Magistrates' Court the next day? A Yes, the following morning.

Q And you saw him at that time? A Yes, I did, and also in this court before the Grand Jury. No, I didn't see him then. I saw him just the next morning; that was all.

Q What was his appearance the next morning; how did he seem to you? A He seemed frightened.

Q Did he have any appearance of having been intoxicated the night before? A No.

Q He seemed to be perfectly sober? A I don't know.

Q I simply want to get your impression of it. A No, I don't think he was drunk. I don't think so.

Q Of course, he wasn't that morning, but I mean did he look like a man who had been the night before? A No.

Q Did you hear his replies to the Magistrate? A Not

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very well. I heard him explain something to the clerk, but I didn't hear him at all.

Q You couldn't hear what he said? A No.

Q Did you notice anything peculiar about the way he spoke? A To me? Yes, he told me he knew nothing about the fur; but he remembered the clock.

Q But I mean his manner of speaking; was it in any way peculiar? Did you notice anything odd about it? A I don't think he was very smart or intelligent. I wouldn't call him crazy.

Q You wouldn't call him crazy? A No.

Q Did he seem to reply readily to the questions or hesitate? A He asked me about the clock. He said he picked it up and he threw it on the ground, but he didn't see the fur piece.

Q And that was all the conversation you had with him? A Yes; because I asked him about the fur piece and he answered.

Q Now, were there other valuable things in the room at the time? A No; nothing else, only chairs, lamp and a table, nothing that he could lift.

Q About how high is this window from the ground? A Well, any one can climb in the window.

Q It would be easy to climb in? A Yes; but he broke through a curtain that was fastened to a frame.

Q The window faces on Central Park, West? A Yes, on

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Central Park, West.

Q And would you say that that window was five feet above the ground or less? A No, I don't think so. It is less than that.

Q So that it would be very easy for any one to slip in? A They would have to step up, but any one could do it.

Q There was a little grass plot on the outside? A Yes; he had to step over some shrubs.

Q Now, that was the only occasion on which you saw him, and you saw him in the Magistrates' Court? A Yes, that's all.

Q And your principal observation in regard to him was that he wasn't very intelligent? A Yes, that's all. I have seen many men like that in the street.

Q Was there any one else in your household that saw him? A No; no one saw him, except my son saw him that morning, but he didn't speak to him.

Q Did he see him that night? A No.

Q He saw him the next morning? A Yes, the next morning.

Q And that is the only time he saw him? A Yes, that is the only time.

BY THE COURT: NOW REVEREND:

Q What was there about his behaviour? From his manner of talking you thought he wasn't intelligent? A I asked him about the fur piece; what he did with the fur piece, "who did you hand it to, or give it to somebody?" and he

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said, "I don't know, madam. I picked up that clock and threw it on the ground;" and I said, "We know that, but what did you do with the fur piece?" and he said he didn't know anything about it or saw it.

Q Isn't it possible that he didn't take the fur piece?

A It is not, because I remember decidedly putting it in the sun in the morning.

Q That same morning? A Yes, and there were two tails missing. The tails were separated from the scarf and the tails were left on the table and the scarf was taken.

Q Do you base your opinion of his intelligence on his accent, or anything like that? A No. I have been in the countries and speak with an accent, and he seemed to be not right. He was nervous. He was frightened. I think I would be frightened to if I was in jail.

Q Did he hesitate about his answers? A No, sir.

Q Did he seem to remember? A He remembered stealing. He remembered the clock. I asked him about the fur piece.

Q In regard to this fur piece, do you think it would have been possible for any one to have taken that through the window during the day, or earlier in the evening? A No; I was in all day.

Q And all evening? A Yes.

Q It wasn't near the window? A Yes; it was near the window, but they would have to break in.

Q What was the nature of this curtain? A It was fas-

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tened to a frame. Being on the ground floor I wanted the screen at the top and the windows down, and the curtains across, and they hadn't put the screens out, and I fastened it to a frame, and, in order to get in, he had to break the frame.

Q So that it wouldn't be possible to put their hand in?

A No.

Q And when you retired, it was intact? A Yes; and he had broken the whole thing. The policeman saw that. He really broke in.

P A T R I C K C O F F E Y, called as a witness, being first duly sworn, testified as follows:

BY COMMISSIONER STEVENS:

Q What is your name? A Patrick Coffey.

Q Where do you live? A 2649 Eighth Avenue.

Q You are Keeper at the Tombs? A Yes, sir.

Q Day or night duty? A Day.

Q When did you first see this defendant, Jensen? A June 15th.

Q June 15th? A Yes.

Q Your work is on the Observation Tier? A Only on that tier.

Q And he was put on your tier on June 15th? A Yes.

Q And you have observed him since that time? A Yes.

Q Now, tell us, if you can, what you noticed in regard to

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him? A I didn't notice anything the matter with the man. He came to me about his head - headache. He was perfect in every other way.

Q He has been cleanly about his cell? A No, he didn't say anything to me about his cell.

Q Has he been clean? A Yes. I asked him if he wanted to get a shave and he said Yes, and we took him out and got him a shave.

Q But he has kept his cell in good shape? A Yes, the same as the rest of the prisoners there.

Q Does he go out with the other prisoners for recreation? A Yes; he takes his daily exercise.

Q Does he talk with them? A Yes.

Q Did you ever notice him when he was in his cell alone how he behaved then? Is he alone in the cell? A No. There is another inmate with him.

Q There is another man with him? A Yes.

Q Does he ever sit and talk to himself? A I never saw him talking to himself.

Q But so far as your observation goes, he seems to be perfectly normal? A Yes.

Q Never noticed anything peculiar about him? A No, sir.

Q Does he eat everything that is given to him? A He takes everything that is given him. He has no funds.

Q Ever complain about the food? A Never.

Q Ever complain about his treatment in any way? A

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Q Eats everything as it comes? A Yes, sir.

Q A good prisoner? A Yes, a good prisoner.

Q No trouble? A No trouble whatsoever.

Q Did you ever notice anything at all that was peculiar or eccentric about his actions? A No, sir.

Q Did you ever have occasion to tell him to do things?
A No, sir.

Q I mean in regard to cleaning up his cell, or anything of that sort? A He cleans it up without being told.

Q You never noticed any lapses of memory, or anything of that description? A No, sir.

Q You are not there at night? A No.

Q You don't know how he sleeps? A No.

Q Have you heard anything from the night keeper in regard to him? A No, sir; no complaints.

Q Never has had a fit of any kind while he has been there? A None while he has been with me.

Q Does he call for the doctor at any time? A No, sir.

Q The doctor has been to see him? A Yes.

Q He never called for him? A No.

Q You saw he complained on one or two occasions on account of a headache? A That's all.

Q Do you know if anything was done for him at the time?
A I guess Dr. Lichtenstein seen him.

Q You don't know if he gave him anything? A I don't know whether he gave him any medicine or not.

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Q But so far as your observation goes, he seems to be a normal man? A Yes.

Q Is he as intelligent as men of his class usually are, in your opinion? A Yes.

The Commission thereupon adjourned the further hearing of the case to Monday, July 14th, 1919, at two-thirty o'clock, P. M., to meet in the Sheriff's Room, of the Criminal Courts Building, 32 Franklin Street, Borough of Manhattan, New York City.

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New York, July 14th, 1919.

The Commission met pursuant to adjournment.

Present: William R. Montross, Esq., Charles W. Stevens, Esq., and Samuel T. Silverman, Esq., Commissioners; Mr. William Gallagher, representing the District Attorneys Office; and Albert Jensen, the Defendant.

RUDOLPH O'MOLLER, called as a witness, being first duly sworn, testified as follows:
BY COMMISSIONER MONTROSS:

Q What is your name? A Rudolph O'Moller.

Q Where do you live? A 122 St. Felix Street, Brooklyn.

Q Are you acquainted with Albert Jensen? A Just through army life.

Q Through army life? A Yes, sir.

Q How do you know that you are acquainted with him? Have you seen him since he was in the Tombs? A I was working with him.

Q Have you seen him since he has been in the Tombs? A No, sir.

Q How do you know that he was there? A I didn't know it until I read about it in the paper, because he got seriously wounded in France, and everybody thought he was dead when he was taken to the hospital.

Q You were in the army with him in France? A Yes.

Q Did you know Jensen in the army in France? A Yes, sir.

Q Were you in the same regiment with him? A I was in the same regiment with him.

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Q Same squad? A No, sir; not in the same squad. He was in the first and I was in the second.

Q How often did you see him? A Every day for two months.

Q Were you present when he was injured? A No, sir.

Q How do you know that he was injured? A How he was injured?

Q How do you know that he was injured? A From the commanding officer. He gives out the records every day of the boys who were injured, and this record came out that Jensen was seriously injured.

Q That's all you know about his injury? A Yes.

Q Did the medical officer say anything to you about his injury? A No, sir.

Q You never seen him since? A No, sir.

Q Have you heard from him since? A No, sir.

Q How did you happen to be here to-day? A I got a summons to come up to-day.

Q Now, you say you saw him practically every day while you were in France? A Yes, sir.

Q For how long? A Two months I seen him; for two months.

Q Describe, if you will, what his appearance was when you saw him those times in France? A His appearance was very good. He was doing his work. He was digging trenches right in front of Arras. That was the time the whole

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regiment was together and after that the whole regiment was separated. We were all working together.

Q Would you say he was a good soldier? A Yes, sir; an extra good soldier.

Q Did you ever hear any orders given to him in connection with his work? A Yes, sir; I heard that too.

Q Did he obey promptly? A Yes, sir.

Q Did he seem to understand what was said to him? A Yes, sir.

Q Have you ever noticed anything about him to indicate that he wasn't in his right mind? A No, not that I can say.

Q Do you know whether his habits were good? A His behavior?

Q Yes? A Yes, sir; it was good.

Q Do you know whether he drank anything? A No; I couldn't tell. Very seldom we got anything to drink, because where we were there was nothing to drink but water, unless we hit down south. That was the only place.

Q Have you ever seen him when he had been drinking? A No, sir.

Q What months were they that you saw him in France? A That is pretty hard to tell. It was in the middle of March until May.

Q And that time was just previous to the time that you noticed the posting to the effect that he had been injured?

A No, sir; that was, if I remember right, in October, 1918.

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in the Argonne front when Jensen was injured. If I remember right, it was near Sedan or Chippe.

Q How long a time elapsed between the time you saw him every day and the time he was injured? A It was about six months.

Q So that there was a period of six months that you didn't see him? A No, sir.

Q Did you see him in Fort Totten before he went abroad? A Yes, sir.

Q Did you notice anything about his behavior down there? A Yes, sir.

Q What would you say? A As far as I know?

Q It was what? As far as you know, it was what? A Good behavior.

Q Never noticed him under the influence of liquor? A No, sir.

Q Never heard any one say he drank? A No, sir.
BY COMMISSIONER STEVENS:

Q Did you ever go out with him when he was out on leave? A No, sir. Very seldom I left camp myself.

BY COMMISSIONER MONTROSS:

Q You see him anywhere in this room? A What?

Q You see him anywhere in this room? A Yes, sir; that is the man (pointing to the defendant).

Q You recognize him? A Yes, sir.

Q How does he compare now when you first saw him? A

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He looks worse than he ever did before.

Q In what way? A His skin is not in as good a condition at the time I saw him, and I think he is a little more fuller in the face. He was kind of thin at that time.

Q His color was better then? A Yes, his color was much better than.

Q Did you have an opportunity to hear him talk when you were over there? A Yes, sir.

Q Did you notice anything peculiar about that? A He talked in a broken English.

Q Did he appear to have any impairment in his speech then? A Sir?

Q Did he have any defect with his speech other than his broken English? A If I remember, he drags his talk.

Q Sort of stuttered? A Yes.

MARY A. ROBINSON, called as a witness, being first duly sworn, testified as follows:

BY COMMISSIONER MONTROSS:

Q What is your name? A Mary A. Robinson.

Q Where do you live? A At the New York Hospital, 8 West 16th Street.

Q What are your duties in connection with the hospital? A Assistant Directress of Nurses.

Q Have you ever seen the defendant? A I don't remember of ever seeing him.

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Q Have you brought with you any records connected with the hospital? A Our book records show that he was with us for five nights, and he walked out.

Q And that he walked out? A That is on May 1st.

Q What year? A 1919.

Q Do your books show that he was employed at the hospital? A Yes, from April 25th to May 1st.

Q What was his services, according to your record? A An orderly.

Q In what department of the hospital was he employed? A Male medical ward as orderly.

Q And can you tell us, please, who was on duty in that ward during those times who would recognize him possibly?

A I haven't the slightest idea who it was.

Q Would your books show who was on duty? A I suppose so.

Q Have the books you brought with you to-day any such records? A No, I didn't bring the record. I have brought our training school records. We keep an index. Our night supervisor who was on and who had charge of these men is not with us.

Q Where is that supervisor? A I think she is up in Maine.

Q Is she employed in some hospital? A No.

Q Is she home? A I haven't the slightest idea. She left us entirely. She has taken a vacation. I don't know what she intends to do.

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BY COMMISSIONER STEVENS:

Q Would your record show what nurses worked in the ward with

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Q Have you any forwarding address of her's at the hospital? A No. The only address we have is in Brooklyn.

Q Do you know whether there is any one who can locate her? A Yes, I can find out.

Q You don't know of your own knowledge? A No.

Q You think it can be found out through the hospital records? A Yes.

Q Would you be willing to look that up and give the information to Mr. Ehrlich, if he should telephone you, or write you, without coming down again, of course? A Yes, sir.

Q You don't know of any one now in the hospital who would be likely to remember this man being at the hospital?

A No, I do not.

BY COMMISSIONER STEVENS:

Q Would your record show what nurses worked in the ward with him at the time? A We could find that out, but I would like to represent those nurses.

Q You see, what we are very desirous of getting is information from somebody who has seen him and watched him work and knows what he did. That is quite important.

A It would be the night supervisor who would know that; the nurses wouldn't.

Q The nurses themselves who worked with him? A They don't exactly work with him. He takes their orders, but they don't supervise him at all.

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Q But they know something about what he has been doing?

A I suppose they would. He was only there for five nights, and during that time you can hardly tell what a person is.

Q There would be a night nurse on who was probably there all during that period? A I haven't the slightest idea if she is there or not. Of course, our records will show who was on there.

BY COMMISSIONER MONTROSS:

Q That is what we want to find out, who was on, and have that person tell us what they remember about him.

BY COMMISSIONER STEVENS:

Q This supervisor of nurses who is away was the person who employed him? A He was employed through our office.

Q Through the office? A Yes, through the training school office. The night supervisor had full control of him. He probably never saw him from the day he came in.

Q Just exactly what we want to get is somebody who did see him and how he did his work, and what they observed in regard to him. There must have been some nurse on duty in the hospital at the time. A If you are willing to let me find out from her, I will let you know.

Q We want to find it out from that person who saw him.

A I will try to find that out.

Q And who worked with him, and she can probably give us some important information in regard to him. It is very important that we get all the data that we can. A I will find that out for you.

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BY COMMISSIONER MONTROSS:

Q It would seem that there were several people on the ward with him? A One night nurse and one night supervisor.

Q Could they be the same individuals on those five nights? A I haven't the slightest idea. Our nurses change so often. I would have to look up our records and find out.

Q You haven't heard anything from the nurse who left?

A No.

Q When did she go away? A First of July.

DR. PERRY M. LICHTENSTEIN,
called as a witness, being first duly sworn, testified as follows;

BY COMMISSIONER MONTROSS:

Q What is your name? A Dr. Perry M. Lichtenstein, address 775 Bock Street, Manhattan. I am the Resident Physician of the City Prison, and have been such for the past six years. During that time I have testified as an expert before Commissions in Juacy and in open court.

I know the defendant Albert Jensen. I have known him since he came to the City Prison. I don't remember the exact date, but when he came to the City Prison he was placed on the seventh tier and he seemed to answer all questions that were put to him in the ordinary history that we take when a prisoner first arrives in the Tombs.

I had him under observation for quite some time.

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and one day I happened to talk to him about the crime itself - the actual commission of the act. The way I happened to do this was when he told me that he was suffering from headaches, dizzy spells, and I asked him if he ever had any injury to his head, and he showed me this depression.

Then I questioned him concerning the crime itself, and I transferred him to the first floor for observation.

I have spoken to him on numerous occasions; have seen him quite often and have watched him; that is, observed him when I was making my rounds and when he was exercising.

He gave a history of being thirty-one years of age, born in Copenhagen, Denmark; has been in the United States for fifteen years; both his father and mother are well and alive, and he has three sisters and one brother alive and well.

There is no history of insanity, according to his statement, either in the direct or collateral branches of his family. He states that he is a moderate alcoholic; that is, he drinks moderately; that he drank quite some in France, but he hasn't had anything or didn't have anything to drink for about nine months prior to the commission of the act, except the day before his arrest. That day he had some whiskey.

Now, he is a moderate cigarette smoker, and the

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is no history of drugs; that is, of narcotics of any kind.

Venereal History: He had, what appeared to be gonorrhea ten years ago. At that time he was circumcised, but he states he never had any chancre from any venereal source.

Child hood History: He states that he had the ordinary sicknesses, such as measles and scarlet fever, and had no injury to his head when he was a child. Neither is there evidence of either the petit or grand mal variety of epilepsy during his childhood.

His school history was, when he was six years old he began to go to school, and went to school until he was fifteen. He completed school. He said he was an apt pupil and was never left back, and got along very well with everybody.

He worked with his father until he was eighteen years of age doing clerical work, and then he came to this country, because the opportunities were better. When he came to this country, he enlisted in the United States Coast Guard, and re-enlisted four times altogether, so that he was in all five years in the United States Coast Guard. He was honorably discharged. He then went to the United States Marine Hospital, in Baltimore, and worked there for one year as a male nurse. He left to go to another hospital. He states that he got along very well there, and he only went there to better his condition. He then went to the

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Marine Hospital, on Staten Island. He was there for one year, and then worked as a nurse in the Mental Hospital, in Morris Plains, New Jersey. He was there for nine months, and then left to go to New York. He said that the pay was very poor and he wanted to better his position. So he went to work for the St. Lukes Hospital as an orderly.

His mind doesn't seem to be as clear from here on. That is, he has to stop and think to remember where he went next and how long he remained in a place. He said he was at St. Lukes Hospital for about ten months, and then he left and went to the Roosevelt Hospital for six months. Then to Blackwell's Island, but he doesn't remember the date or the year that he was in Blackwell's Island. He was there for about a month, and after thinking for quite a while, he told me that his next position was in a hospital at Sixty-third Street and First Avenue, where he remained for about eight months. He then went to Randall's Island as an attendant and was there for about a month, and then to Staten Island, where he worked in a tuberculosis hospital in a place known as the Four Corners. He remained there for two months.

BY COMMISSIONER STEVENS:

Q Where was this? A In Staten Island. I believe that was the description of the place, Four Corners. He had difficulty in remembering the next place, but after thinking

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for quite awhile he said he came to New York and then enlisted in the United States Army. He said war had been declared and he went to France.

I asked him what day he sailed for France and he couldn't recall that at first. Later, he said, that it must have been in the latter part of May, 1917; that he was wounded at the battle of Verdun; that he was unconscious for three days, and that he didn't know what had happened to him for about one week. At that time he states he didn't know his name, and for about one month he was in a very critical condition. His eye-sight was very poor, and so was his memory. He remained in the hospital for four months. That was Base Hospital 26, and he then was sent to Camp Upton and discharged.

For three months he worked on and off in different places as an orderly in a hospital, and then the crime took place.

He states that he had been drinking the day before. He was going out to the movies, and, when he was seated he looked at those pictures and he said the light hurt his eye. He had very bad headaches and he had been suffering all day from headaches, and had been to two or three different places to get powders.

He said he had dizzy spells. He said they were more severe in the United States than they were in France. The headaches became worse and he went to a drugstore to get some tablets. He then went to another store in order

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to get a cup of coffee, and there he met some man to whom he talked about his condition and he told him about this headache and he suggested that he take some brandy and go home and take a sleep and he would feel better. He did so and felt very sick. He thought he would sit down and rest, and after that, he says, he doesn't remember what happened. He said he remembers the next day about asking the policeman why he was arrested in the station, and he asked the policeman also if he had been found intoxicated, because he had only taken a little bit of alcohol. He had only taken that brandy at night, and he said to the policeman if that had an effect upon him he didn't want to drink any more.

I questioned him many times concerning the crime and I always received the same answer. He absolutely remembers nothing about the actual commission of the act.

Now, since he has been in the City Prison I have noticed that his memory for recent events was poor, and taking the history I noticed that his memory for recent events was poor. He could tell you things quite accurately that occurred some years ago. He seemed to be able to retain that, but when you approached nearer to the present day, it seems that he stops and thinks, and then he wouldn't give you a positive answer. He would say, "I think it was about" such and such a time, or "I stayed there about" so and so long.

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Now, he has always been well behaved in the City Prison; an ideal prisoner. He never showed any maniacal outbreaks; never had any delusions or hallucinations; never moderately depressed; always got along well with everybody, and he seems to associate with the men on the tier and talks to them, and he eats well and sleeps well.

The physical examination disclosed a marked depression on the right parietal region. The depression seemed to be about an inch and a quarter in circumference, almost round, and also a scar just above the right eye, and he also had the pupillary reaction. The left eye responded to light and accommodation, and the right eye was sluggish. In fact, it appeared that there was hardly any reaction to light in the right eye.

The patellar reflexes were exaggerated. There was a slight tremor to the fingers, and there was no sear to the tongue, and he swayed slightly when placed in the Romberg position. That is the sum total of my observations and examinations of the defendant.

BY COMMISSIONER SILVERMAN:

Q Did you, in noticing this lack of attention for recent events - you said something about his hesitating; do you think that is genuine? A I think it is genuine, because I have questioned him along the same lines. The way we usually take a simulator is to question him practically every day; ask him the same questions, but not in the

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same way and try to get around him and see if he can remember things, and I found that this man has not varied a bit. A simulator would vary sometime or other. You might get him off guard. You might ask him a question and his answers are all the same. A simulator acts strangely during the day and rests at night. By that I mean, if he has delusions or hallucinations a simulator usually shows them during the day, but he sleeps well at night. A person who simulates usually during the night sleeps very well and has these delusions during the day, while a real insane person sleeps very little and has most marked delusions during the night than during the day. This man never had any delusions or hallucinations.

Q At no time? A Yes. If he was trying to simulate insanity, he would have delusions or hallucinations. We don't find people, as a rule, simulating forgetfulness. That is, amnesia. If they are going to simulate they are going to simulate an outbreak, or else have delusions or hallucinations. This man didn't have these. The only thing that this man has is the fact that he has this amnesia, and, furthermore, the physical signs lend great weight to his mental condition. That is, he can't think on account of the depression he has in this skull.

BY COMMISSIONER STEVENS:

Q Did you make a homoeopathic examination? A No, we do not make that. I don't know what the condition of

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his right eye is. I can say I don't know what the internal condition of the eye is. I can say that the reflexes on the right side are sluggish.

Q Is there any difference in the size of the pupils? A No; there was no difference in the size of the pupils that I noticed. There was a dilation of the left pupil.

Q The right one is sluggish in its response? A Sluggish in its response to accommodation it seemed to me to respond. He followed my finger.

Q How you say he has this marked depression in the prietal region? A Yes.

Q How about the scar over his eye-brow? A It seems that the bullet entered there. That is his story, that the bullet entered just over the right eye and came out in the right prietal region.

Q Mentally about the only symptom that you noticed out of the ordinary is this amnesia? A Yes, and also the fact that he has dizzy spells. He complained more of the dizzy spells when he came to the City Prison than he does now. In fact, he says now he gets them very seldom, but he has headaches. It seems to be a minor form of epilepsy.

Q Has he had any epileptic attacks since he has been in the Tomb? A There has been no major form of epilepsy. The only thing that he has complained was of dizzy spells and headaches.

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Q How many times have you been called in about these headaches? A I would be making my rounds on the tiers. Probably he would talk to me about every second day.

Q Always spoke of his headaches? A Of his headaches and of the dizzy spells. In fact, he is a man who wouldn't approach you. That is, he impressed me that way unless he had to. He seems to be a fellow who likes to keep to himself. That has been our experience. He isn't a trouble maker, and it is only as a last resort that he would ask for anything.

I remember distinctly one Saturday afternoon when he came to me that he had these dizzy spells, and he had to hold on to something, and that he had the headaches. Now, it seems that while I talk to him of things that occurred, he doesn't seem to remember things. I would talk to him of France and tried to refresh his recollection, but he wouldn't remember distinctly, and, as I said before, his memory for recent events seems to be very poor.

Q Has he ever complained of any pains in any part of his body? A No, he hasn't complained of that at all.

Q A man who has evidently had a head injury of that description, what would you think would be the effect of alcohol on him? A We know, and we find from our experience, that more particularly with the minor form of epileptics, that is, people who have dizzy spells, in which everything seems to get black, as they say, they seem to think they

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are going to fall, but suddenly come to again, and, those individuals particularly we find that alcohol acts like a poison. People who take alcohol suffer from that usually - suffer from maniacal outbreaks.

Now, we have what is known as the epileptic equivalent. An epileptic equivalent usually takes the place of an epileptic convulsion itself, or else one of these minor attacks. That is, dizzy spells. That is known as the epileptic equivalent. Instead of having one of those convulsive attacks, falling down, or instead of having one of these dizzy spells - that is, maniacal outbreaks, in which they have absolutely no remembrance, we find that alcohol incites such outrage. We find it is equivalent to taking a match and putting it to gunpowder. The person loses all control of themselves and does things in a way that apparently would seem that he knew what he was doing, but doesn't remember what he was doing. A person may have a gun in his possession, as we have found, and kill somebody; put the gun in his pocket and walk out and not remember a thing about it.

There is a certain case, if I may digress - we had a colored man who cut the throat of a woman that he was living with. He had been drinking. He was also an epileptic, and he didn't know a thing about it until the policeman brought him back and he said, "What happened to her?" and the policeman said, "You cut her throat," and he said;

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"I don't know anything about it." Now, this man, in my opinion, had an epileptic equivalent when he committed this act. He absolutely didn't remember anything about it. He remembers having a drink; that the man in the store told him to get some brandy and that it would make him fall asleep and that his headache would disappear, and he remembers he sat down on the stoop to rest, and the next thing he remembers they told him that he had broken a clock.

Q Now, according to the history that we have been able to get from this man, and the people who knew him while he was in France, he was accustomed to go on sprees as often as he could get leave, and at such times he would come back to the camp in an intoxicated condition, although nothing serious ever happened, and he has admitted to us here that instead of taking one drink on that night, in all probability he took several more. A He doesn't remember that.

Q He claims he doesn't remember that. Now, the question that we are trying to determine is whether he was really intoxicated at the time he took this clock, as he probably was, or whether his crime was due to his intoxicated state or possibly to this epileptic equivalent. A Yes. Now, in my opinion, from what I have heard and from what this man has told me repeatedly, that he did drink. This was before he was shot, before he received the injury. He was in the base hospital for several months, and then

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came to the United States. Now, the effect of whiskey upon this man before his injury, and the fact after his injury are two different things. If he took one or two or three drinks after the injury, it would have a terrible effect. That is, he would have an epileptic equivalent. If he took fifteen drinks before the injury, it wouldn't affect him. Probably he would be intoxicated and sleep it off. The fact that a man has a fractured skull, the effect upon such a person is entirely different than upon a normal individual.

BY COMMISSIONER MONTROSS:

Q Did he say anything to you in the course of your examination to the effect that the doctors had advised him on the other side that he shouldn't drink? A He didn't tell me that. The only thing he told me was that for eight months - eight to nine months prior to the commission of the act he hadn't touched anything, and that he only drank the day before the commission of the act.

Q His testimony, as I recall it, was to the effect that the surgeon in the hospital over there just before, or at the time of his discharge, advised him that by reason of his very serious injury he should abstain totally from alcohol, or he would be accountable for his actions. Bearing that in mind, and bearing in mind that possibly the only chance of his avoiding the consequences of his crime

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would be to convince the Court that he wasn't in a competent condition that night; bearing those things in mind, and what the doctor told him, do you think it would be strange if he tried to assume this condition at this time? A In answering your question, I don't think this man is assuming his condition at all. I believe the somatic or physical signs, or the physical evidence that we have there, is not simulating. It shows that this man has a fractured skull. That is, the skull at the present time is not intact. It shows also that there was an injury to the brain tissue, as shown by the reflexes. The pupillary reflexes also show that the bullet entered one part and came out of another part of the skull. It showed that it hurt some part of the brain tissue. There cannot be any simulation on that. That is true. If the surgeon told him not to drink, the surgeon took the precaution that every surgeon should take in a case of epilepsy, or minor epilepsy, or any skull injury, because we all know that drink is a poison to those people, no matter how much they were able to absorb prior to that. The facts are very pronounced.

Now, this man, whether he took this drink or not, would make little difference, - would make this difference, that the drink would be more prone to aggravate and bring on such a condition. Even marked excitement might produce an epileptic equivalent.

Q Do you recall, in your questioning him, what sort of

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tablets he took for his headache that night? A He did mention certain tablets that he had been in the habit of taking. I forget their names.

BY COMMISSIONER SILVERMAN:

Q Was it phenacetin? A No; some patent medicine. I forget the name.

BY COMMISSIONER MONTROSS:

Q Did he relate to you any particular incident of serious moment to him, which had happened to him immediately and subsequently to his discharge from Camp Upton? A He told me that he worked as an orderly; after that he worked in several places. That is all he told me. He told me that he was subject to those dizzy spells and headaches, and that for the last two or three months the dizzy spells did not seem to bother him so much. He still has the headaches.

Q Knowing his physical condition, as you know it now, and believing his statement in regard to his headaches and taking these tablets; assuming that he did take such tablets on that day and he took a drink of brandy, do you think the probability is that his condition as he claims it to have been on the night of the crime is not accountable? A I believe from the history of the case and from the statement you just made, I believe that this man was not accountable for his act at the time that he committed the act. This man is not, what you would call an insane person. This man may have this attack when he goes out; when he takes whiskey

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or gets very much excited, but he isn't what we would call an insane person.

From a legal standpoint he wasn't responsible for the act. He didn't know what he was doing. He didn't know the difference between right and wrong at that time. He doesn't recall the act at all.

Q Would it be reasonable to believe that a man in the condition which you believed he was in that night when he committed the crime would go around the corner of 66th Street into Eighth Avenue and pretend that he was searching in his pockets for something; mumbling to himself and walking along and looking up the windows and afterwards go into one of those windows? Would it be reasonable to believe in the condition in which he was at that time he would do such a thing? A Yes, we find them going to greater things. In a case we had, Dr. McGuire will tell you where a man shot and killed certain people, and killed his wife also, and the next day - and after making all preparations for the act, the next day he was brought down to the Tombs and asked the keeper to please call up his wife to bring down his clothes. He didn't remember the thing at all. They go about things as if they knew what they were doing, but they act automatically. They go about these things in a sub-conscious way. They don't remember. They haven't the power of controlling their will. They haven't the power of thinking and of reasoning.

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There is where their act differs from a normal person's act.

Q From what you found out about him, you believe that the probabilities are that he committed this act under those conditions? A There is no doubt that this man committed the act during what we call an epileptic equivalent. He had absolutely no insight into the act. He didn't know.

BY COMMISSIONER STEVENS:

Q In your knowledge of epileptic cases, you, undoubtedly, distinguish, as every one else does, between a functional and the Jacksonian type, which is due to a brain injury. Now, have you ever noticed, in differentiating these cases, that the epileptic equivalent, so-called, is more apt to appear in one form or another? A More apt to appear in the Jacksonian type. That has been our experience.

Q And the Jacksonian type is the type which this man is usually suffering due to injury? A He is suffering from a minor form of epilepsy. He hasn't the convulsions.

Q And having the epileptic equivalent would stamp him as an epileptic? A Yes, and the fact that he suffers from these minor epileptic attacks and dizzy spells and headaches. That is against him.

Q Have you ever seen him when he complained of being dizzy? A Yes; that is the first time.

Q Was there any outward indication of his dizziness? A No; not at that time. He told me that he had a dizzy

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spell and that he had to grasp some door to hold on. He thought he was falling and would then steady himself, and he came to me and asked me if I could give him something for his dizzy spells and for headaches, and that is the first time that my attention was drawn to the fact that he was suffering from a minor form of epilepsy. I got a history of previous attacks, and also this injury of his - the injury to his skull.

BY COMMISSIONER MONTROSS:

Q. Bearing in mind that he is the son of a physician, and was associated with his father a great deal before he came to this country, and since coming here has been employed most of his time in various hospitals, is it likely that he picked up enough evidence of a similar condition - pretend to be in that condition, although he might not be?

A. Of course, that comes to our minds immediately when we look over this man's history, and leads us to think that he might be simulating, but the fact remains that this man has never been arrested before.

Q. I have to correct you on that. He was. A. His history was that he never had been, and secondly, the fact that he has this injury to the head. That is there. That is all there is to it. It is plain. You can feel that. There is nothing internally that you can't see. Of course, there may be some internal condition; some internal injury to the brain tissue itself. You can put your hand there and feel it.

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Therefore, a man with such an injury there is a very serious doubt in my mind that this man is simulating after having observed him so very closely.

BY COMMISSIONER SILVERMAN:

Q This man testified that after running away a block or two the policeman who caught him said, "What's the matter?" and he said, "There is a fellow, a pro-German, who was trying to get at me and insulted me." Now, how do you associate his statements then to the policeman compared with the fact that he did not know anything about his act? A Did he make that statement, or did the policeman say that? He might have said that he doesn't remember. That is one of the things that takes place in the act. This condition that this man is suffering from is so different from the ordinary form of insanity. Where we have mania or marked depression, it seems difficult for a person to realize that this man was not responsible for the act he committed, because it is so different, but he may have said it. He may have taken out a gun and show it to the policeman, if he had a gun in his possession, and may have told the policeman that somebody was after him or tried to hurt him. He may have been suffering, but he doesn't remember it now. Those things are all part of the act that he doesn't remember. If he had made that statement to the Commission that he had run away and that somebody was after him, and

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for that reason he ran away, of course, that would throw out an epileptic equivalent. He doesn't make that statement. He doesn't remember that at all.

Q The woman whose apartment was robbed saw him in court the following day and asked him what he did with the fur piece, and he said, "I didn't see any fur piece." That was the only thing. A I asked him about that. I said to him, "What did you say when you were arraigned in court?" I usually ask them that. He said, "I thought it best to plead guilty in order to get out of the trouble, because I don't remember what I had done and I thought I would be able to get out of the thing quicker if I did plead guilty." That was his statement. He said he answered questions "but the honest truth is that I don't remember one single thing about the act itself. I don't remember anything about it."

Q The following morning he had no chance to hear what the testimony was? A The policeman told him that he had broken a clock, or took a clock, and when he was asked in court what he did with the fur piece, and he said all that he remembered was a clock, and that was impressed on his memory. He didn't remember anything about the fur piece. Probably if somebody had told him that he had stolen a fur piece and other things he would have probably mentioned those things too, but he states that not once but about

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fifty times everytime I talked to him, and I told him to be honest with me, and every time he said he doesn't remember the act at all, only what the policeman told him. That is what he remembers.

BY COMMISSIONER STEVENS:

Q Now, to look at this question of simulation from another viewpoint: Would you consider a man of his mental calibre, even though he had been associated in hospitals, and even in hospitals for mental diseases, as he undoubtedly has, would have had the intelligence and the knowledge to carry out a simulation of such an obscure symptom as an epileptic equivalent? A I said a person when he simulates usually simulates a maniacal outbreak, but he wouldn't talk anything like an epileptic equivalent. That is a rare condition; practically rare amongst all the insanities. A person would tie up all his clothes. I will give you some of the cases we have had. Take some cord and tie up the clothes and dress up in paper; flow the cell with water; yell all day at the top of their voice and annoy the prisoners, and sing at the top of their voices and get tired at night and sleep all night, or else the prisoner may do that during the day, as the Ducane case. That is a most marked simulation case. Ducane escaped from Bellevue. I believe that case is fresh in the minds of the Commission. We had a peculiar way of simulating. We would lie in the cell and would frown at you and wouldn't say a word. We

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only would say: "I have a pain; I have a pain." He wouldn't talk to anybody.

I testified on his trial at the Commission that he was a simulator and I gave them reasons for it. I advised the Commissioners to go upstairs with me. The Commission was held over in the Tombs that Saturday and the Commissioners went upstairs and we talked to him and all he did was to frown, and I said, "You better stop that; we are on to you. We know you are faking." He always keeps that same frown. After the Commissioners left, the man came around to give out the dinner and I stood at the cell, and he jumped out of his bed and went over to the fellow who was carrying around or giving out the dinner, and said to him: "Don't forget to give me a couple of pieces of bread. I am hungry. Give me a good dish of soup. I will fix it up." He thought nobody was around, but when people were watching him he always had that frown and would say, "I have a pain in my leg," and when he was sent to Matteawan and stayed there a short time, he was returned as cured. When he came back he faced a very severe charge - several charges. One was a charge of the United States, and when he was taken down to the court he suddenly collapsed and orders came from the Federal Court to send the man to Bellevue Hospital. I told the Bellevue Hospital doctor to look out for this man; that he was a faker, but the next

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week a report came that he had a complete paralysis. He was up there several months and he walked out. There is no doubt in my mind that this man suffers from an epileptic equivalent, and there is no doubt that if you give that man one drink of whiskey that you would see a true form of epileptic developed in this man. He couldn't stand it.

BY COMMISSIONER MONTROSS:

Q Do you think it would be a fair test to give him a drink of whiskey? A No; I think it would do him a great deal of injury. If he ever comes out and takes whiskey, or is able to obtain it, there is no doubt he may even commit a murder. The difficult thing is to determine where to send such a man. That is the most difficult thing. He isn't a subject for a prison and he is really not a subject for an insane asylum, although in the eyes of the law he is insane at the time he committed the act. That is my opinion. He is a menace when he is at large.

BY COMMISSIONER SILVERMAN:

Q You don't think they would keep him at Matteawan?

A They usually turn them out in a short time. Ward's Island would be the best place for a man like him.

Q That is not where he would be sent by the Court? A The Court sentences people to Ward's Island.

Q They can do that? A Yes; sure.

BY COMMISSIONER STEVENS:

Q Then to sum up your conclusion of the man's condition

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you believe that at the time of the commission of this act he was not mentally responsible? A That is true.

Q But in the ordinary going about the Tombs, he doesn't have this epileptic equivalent. He is a normal individual?

A He is normal in the sense that he knows the difference between right and wrong, but he is a potential criminal. He is liable to commit an act at any time if he has a period of excitement, and a period is likely to bring out an epileptic equivalent, in the same manner as a drink of whiskey.

Q You mean a potential criminal without responsibility? A Yes, without responsibility.

The Commission thereupon adjourned the further hearing of the case to Wednesday, July 16th, 1919, at two-thirty o'clock P. M., to meet in the Sheriff's Room, of the Criminal Courts' Building, 32 Franklin Street, Borough of Manhattan, New York City.

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New York, July 16th, 1919.

The Commission met pursuant to adjournment.

Present: William R. Montross, Esq., Charles W. Stevens, M. D., and Samuel T. Silverman, Esq., Commissioners; Mr. William Perlmutter, representing the District Attorney's Office; and Albert Jensen, the Defendant.

GEORGE W. DALY, called as a witness, being first duly sworn, testified as follows:

BY COMMISSIONER STEVENS:

Q What is your name? A George William Daly.

Q And what is your business? A Lineman, New York Edison Company.

Q Are you acquainted with the defendant here, Jensen?

A I am.

Q When did you know him? A He enlisted in the same outfit with me.

Q You were in the same regiment with him? A Yes, sir.

Q In the same company? A Yes, sir.

Q In the same squad? A For awhile; yes, sir.

Q For awhile? A Yes, sir.

Q And you saw a good deal of him at that time? A I did.

Q You were tent-mates? A We were; yes.

Q Did you know him before you went across? A On this side; yes, sir.

Q You didn't know him on this side? A I knew him on this side of the regiment.

Q You knew him also on the other side? A I did.

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Q What did you know about him; was he a good soldier?

A He sure was.

Q Was he the kind of a man who obeyed orders readily?

A He was.

Q Did he forget anything that you know of? A Not to my knowledge.

Q What was his conduct about the camp; was he well behaved? A He was.

Q Ever know of his being intoxicated? A No, sir.

Q How is that? A No.

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

Q You were with him France too? A Yes, sir.

Q And you never saw him intoxicated there? A No, sir.

Q Were you in the same squad with him in France? A I was for awhile.

Q At the time you were with him, was he the striker for one of the officers? A Yes, he was.

Q That was while you were his tent-mate? A Most of the time he was the striker for the officer.

Q And you say you never saw him intoxicated during that period? A No, sir.

Q Do you know of his drinking? A He was drinking little. It is quite natural for soldiers.

Q Do you know of him getting into any trouble of any kind? A No, sir.

Q He never was reprimanded by the officer or under arrest? A Not to my knowledge.

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Q Not to your knowledge? A No.

Q You are quite sure you never knew of his being intoxicated? A No.

BY COMMISSIONER SILVERMAN:

Q You understand that we are not looking for a certificate of good character. He isn't being tried. We want to find out what his behavior was, or what his mental condition was at the time. A Yes, sir.

Q So you answer whatever you saw. It isn't going to hurt him one way or the other. A (No Answer).

BY COMMISSIONER SILVERMAN:

Q What kind of a man was he, was he well liked in the Company? A He was, yes, sir, as far as I know. I know I liked him. I can't state any other man's opinion of him.

Q Was he laughed at by the other men and used as a butt in any way? A No, sir.

Q Was he the kind of a fellow who went along with the men a good deal? A Yes, sir.

Q He didn't stay by himself? A No, sir.

Q He sought the company of others? A He did; yes, sir.

Q He was well liked by everybody? A I can't give you an opinion of other men. As far as I saw of him, I liked him. I can't state another man's opinion.

Q Well, now, do you know anything about the injury that he received? A I do.

Q Were you present at the time? A I was pretty

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Q You didn't see him personally? A I was working very close to him.

Q Did you see him when he was injured? A They took him away too quick for me to see him.

Q So that you don't know anything about the character of the injury, except what you heard? A That I heard and what I heard from the medical man who took care of him and gave him first aid.

Q Do you recall what that man said? A He said he didn't think he would live to reach the hospital. He had a cut over the eye and a slight cut under the throat.

Q And he said he didn't think that he would live to reach the hospital? A He did.

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

Q Were you present at the dinner which was given to your outfit? A I was.

Q Did you see him there? A No, sir.

Q And you haven't seen him since until to-day? A No, sir.

Q How does his appearance now strike you in comparison to what you saw him before? A He lost a little weight, I believe.

Q You have had no occasion to talk to him to-day?

A No, sir.

D R. F R A N K A. M C G U I R E, called as a witness, being first duly sworn, testified as follows:
BY COMMISSIONER MONTROSS:

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Q What is your full name and address? A Dr. Frank A. McGuire, 73 East 85th Street, Manhattan. In practice since 1877. Official position, Visiting Physician to the City Prison sometimes known as the Tombs, and in my sixteenth year. Qualifications accepted, I suppose, gentlemen?

Q Yes. A Shall I proceed in the usual way?

Q We will be very glad to have you do so. A This defendant was indicted about June 11th, and brought to our place at that time, and he was brought down by my associate in view of certain conditions connected with statements he made, and in view of a very serious gun shot injury at the right anterior part of the head, which might have borne some relation to the act with which he was charged.

He was born in 1868, in Denmark. He stated that his father and mother were alive; that he had three sisters and one brother, and that in his early days he had no serious diseases. He had no epileptic seizures, either of the petit or grand mal variety, and he could read and write, and he said many other things; that his father was a doctor. I didn't have that corroborated through other sources, and that he grew up without any particular incidents. He never had any severe injury of the head, only with the exception of the one he received in the recent war; and had never been sun-struck. He also denied syphilis.

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I don't know as to whether a Wassermann had been taken. We generally always try to have a Wassermann in connection with the general history.

Physical signs: the pupil on the right side of you couldn't get any response on being subjected to light; very little good accommodation. I didn't know at that time as to whether he might have suffered some lesion of the eye at that time; whether there was a lesion then within the orbit itself, and the left was somewhat better.

Putting him in the Romberg position, he swayed just a little. He could put his finger to his nose, alternating with the left finger; showed not much co-ordination.

The reflexes at times were a little too active - the ordinary jerks. He then told a story that he had been engaged in places doing nurse work and going to various hospitals, and that he had entered the Coast Guard and had been in there for five years, and for two years was in active service with the United States in France, Company "C", Eleventh Engineers, and on November 1st, 1918, was severely wounded at Verdun, France, with a fracture of the skull. As he said, a machine gun bullet struck him above the right eye, and that he also had a fracture of the nose.

He said he was in Base Hospital #36 in France for five months, and was honorably discharged in Camp

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Upton, New York. After being discharged from the Army Hospital, he said he suffered ever since with his head and had headaches, and at times certain strong lights would make him feel bad and he would have attacks of dizziness. Sometimes he would notice that in the moving picture theatre where he would concentrate on the picture and from the light he suffered severe pains, and that about three weeks ago he went to see a moving picture show. He said he went into a drugstore and got some tablets, but that they didn't relieve him. He then went into another drugstore and got some more tablets and got one glass of brandy, which was all he could remember until the next morning when he found himself in the station house with a charge against him. He said, "I thought possibly that the severe wound that I received in the course of my trouble would be looked up in my case as bearing some relation to it."

In going over this case, of course, there was one particular feature that struck me having seen a number of cases, probably eight or nine all told, of what we call pure psychic epilepsy. Psychic epilepsy is an equivalent for the convulsive epilepsy in this way: There is no convulsion, but instead of that we have a mental equivalent in which certain acts are performed; murders, and assaults, sometimes of very serious characters, and in that interval of time there is a complete hiatus until a little later when the attack ceases they find themselves probably in some

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place not knowing how they got there and have no knowledge of the act with which they are charged; whether it was an assault, or whatever it might be. These things are spoken about under the old classification as epileptic furor. Now, since they got a better knowledge of that, they call it the psychic equivalent.

I can relate quite some cases, with your permission, as bearing upon this case, if the Commission will agree to hear it.

Q I think it would be very nice. A There is one - my colleague might have related it - and that was the case of The People against Walsh. Walsh was a coarse type of an Irishman. He was a plasterer's helper and he used to drink and would have attacks of the grand mal epilepsy. The common type of epilepsy fall down at their work or would be in the hospital several times, and the ambulance surgeon smelling his breath would diagnose it as alcoholism. In the meantime the fit was the result of his alcoholism.

One day, after he left his work to go home, he went into the room. I think that was in Harlem, and his wife was getting ready his evening meal, and his child or daughter was there, and he went into the bedroom and then came out of the bedroom. He saw the plasterer's hatchet and killed his wife in the presence of his young child. He was taken to the station house, and I remember the stenographer who took down the examination, Mr. Hamell,

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formerly in the office of Francis Garvan, and he distinctly detailed all that was there, even to the finding of the body of his wife, Maggie, lying upon the floor. When he came to us the next day, our orderly, John Brown, he said to Mr. Brown, our orderly, "I like my wife to come down here and to bring me my laundry. I need it;" showing that he had a complete loss of memory of the act, and he goes back to the time antedating just before the crime was committed; that whole interval being a blank or hiatus. We had another rather interesting case --

Q. And so; what disposition was made of that case? A. He went to Matteawan. The Honorable Samuel Keenig was his lawyer, and I think Judge Wadhams knew about that case.

He was examined by Dr. Flint and Dr. Macdonald, and he also had some evidence of an organic insanity from the disturbed pupillary disturbances, probably of an alcoholic character.

Another interesting case was that of a man by the name of Frederick Matthewson. He was fifty-nine years of age, a German; had no children. He was a man that had worked for a long time as a baker, and while in the militia had received two attacks of sun-stroke so severely that he had to go to the hospital, and after that he had attacks of dizziness, where he wouldn't know where he would be for a long while, and which looked like petit mal seizures. For a short period of time he would have no recollection. He worked for the elevated railroad company for a period of

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a dozen years or thereabouts, and his wife was taken sick. She had a cancer, I was told, and she went to various hospitals, and in going through the home to bring up something to his wife he came across an old fashioned paper box revolver; six chambers. So he took this, and he said he was going to bring it with him to keep away the hoodlums who came up and annoyed him. After that was done he had before that had severe attacks and had been treated by a physician when he was getting better. When he felt his attack coming on he thought he would get something to drink, and he stopped in at a liquor store and took a drink of Rock and Rye, and brought home a few ounces of it which he took before he went to bed. The next morning he got up, and he was living then with his niece, a Mrs. Hoffman, and it was a practice to get up in the morning to get the rolls, and that morning he got up and took the revolver with him to go over to the station. He reached the top of the stairway. He smelled powder. He is now on the way over to the station to go to his work when the policeman, who had heard what had passed in that interval of time, says "Hello, Uncle Fritz," - as he was called by the neighbors - "What is the matter?" He looked like a man who was excited. His face was flushed, and Uncle Fritz couldn't tell them what was the matter. He put his hand into his pocket and took out a smoking revolver with two chambers discharged. His niece was

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lying on the ground with two bullet wounds, and she was asked, "Is that the man who shot you?" "Yes." "He shoot you, Lena? He shoot you?" In that interval of time he had no knowledge of it, only the high special sense of smelling. He was examined by a Commission and sent to Mattawan. So all the other cases have that standard. Here he tells a story of a gunshot wound, which is also an infection with probably some injury of the anterior part of the frontal lobe. While the injury does not appear to be the epileptic center, the epileptic center occupies the central part of the brain known as the Jacksonian where irritation will produce convulsion, but a recent German writer named Nonne in a book on syphilis and disease of the central nerves holds that syphilis over the anterior lobe can produce epilepsy, and it would be fair to assume that if a man has a disease of the fore-part of the brain due to inflammatory changes as the result of an injury, that an epilepsy might also occur and that you can get a grand mal epilepsy. It is logical that you can get a psychic epilepsy as the relation is between the two. So when this man's case came to me I was disposed to think that there was sufficient justification to present the case as one of psychic epilepsy, with all the clinical manifestations it revealed with the act charged.

He was well behaved in prison, and otherwise

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seemed to be just as his brother soldier said about him.

BY COMMISSIONER STEVENS:

Q In relation to this epileptic condition, have you ever observed him when he had one of these dizzy attacks?

A. No; I never had that opportunity. He said he had them and had them in his cell when he had these attacks, which apparently had the features of a petit mal.

I remember some years ago I was on a case for the late Judge Seabury down in the Supreme Court where a man had those petit mal seizures, and there is one thing which is positive in making the diagnosis. There is a certain palor of the face and a dilation of the pupils, and I never saw him in these seizures, only his statement.

Q Is it your opinion that even in case he had no regular attacks of petit mal or grand mal that he could have this psychic equivalent? A I am inclined to think that as based upon this fact; of the statements made by well-known authorities that where you have a structural change in the fore-brain, whether in the membrane or in the substance proper, from syphilis you can have it naturally from a gun shot wound; and if you get an epilepsy from a disturbance under those conditions, where the lesions are of an organic character, you can get an epilepsy from an injury of the brain, only one being due to syphilis and the other being due to inflammatory changes, and that being

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proved, you can have a grand mal epilepsy. You can have a psychic epilepsy. That is my line of logic as based upon that.

Q From your experience and from your reading, is it your opinion that the psychic epilepsy is as common or as likely to occur in what is known as the Jacksonian type of dementia as it is in the functional type? A No; the psychic epilepsy is more apt to occur in the petit mal than in the grand mal. I think two-thirds of them are of the petit mal type.

Q Would you call the petit mal type the functional or the Jacksonian - A I would call that functional. The Jacksonian is known to some lesion occupying some Jacksonian area.

Q Yes; so that ordinarily these psychic equivalents come, in your opinion, more frequently with the functional type rather than the type which is due to an actual injury to the lesion? A Yes, which would be hardly simulating. It would be looked upon as a false course of simulation. The fact that he makes that statement confirms the fact that if he had an injury of the brain, it might be a true form of epilepsy.

Q Now, as to the injury of the brain you have stated that he has this faulty reaction of the pupils, to the right eye which I have also observed; that he has some slight swaying in the Romberg position; that his reflexes are

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somewhat exaggerated and that his co-ordination is not all that it should be. A Exactly.

Q And, if we will add to that, that I have observed to-day that there is an atrophy of the optic nerves, it would, in your opinion, point to the fact that there is an actual central lesion? By central lesion, we mean from the brain itself.

BY COMMISSIONER MONTROSS:

Q Due to this injury from this gunshot wound? A Yes.

Q Do you think it is permanent or temporary? A Oh, it is permanent, because it is organic due to inflammatory changes. At least, I believe that. In reading the statistics of Bianchi we found that in the Franco-Prussian War a small percentage of them produced organic lesions.

BY COMMISSIONER STEVENS:

Q You might add to that in addition that the nerve fibres leading to the eye have been destroyed? A Destroyed too, yes.

Q That there is a fair probability that other nerve tissues were also destroyed? A Yes; but, however, it is a central disease due to an injury of that character described.

BY COMMISSIONER MONTROSS:

Q Then, from what you have observed of his condition and from what you know of what occurred at the time of the commission of that act, it was your opinion that he was not conscious of the act he was charged with? A He was unconscious. He didn't know its nature and quality at all.

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we was legally insane at that time.

Q That is your opinion? A That is my opinion at that period.

BY COMMISSIONER STEVENS:

Q To bring out one other point, Dr. McGuire: this man, according to his own statement, and according to evidence that we received from others, was in the habit of getting intoxicated at frequent intervals? A I heard that.

Q In all probability he had no alcohol until he was discharged from the army after being taken to the base hospital. What would be your opinion of the effect of taking alcohol after his injuries in contradistinction of the alcohol before? A It is most disastrous, in my opinion. Even where you have the injuries of sometimes what we call action of the brain, or ordinary injuries, I have noticed that those people who take alcohol are more easily disturbed by small quantities. I can understand that where there is an epileptic tendency from the disease of the brain that the effects of alcohol would be destruction.

Q In other words, you think that the alcohol was exceedingly liable to induce an attack? A Yes.

BY COMMISSIONER MONTROSS:

Q Would the fact that he had taken these tablets that might aggravate his condition? A I think so. It is not common to have headaches with epileptic seizures. I have noticed that epileptics have headaches.

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BY COMMISSIONER SILVERMAN:

Q A headache is often an aura? A A physical aura.

BY COMMISSIONER STEVENS:

Q There is one other point which, I think, might have some bearing, and that is the nature of the crime that this man committed. You had a great deal of experience in observing criminals. Would you think it reasonable that a man who was thoroughly conscious of his actions would break into an apartment house and steal a cheap clock? A Hardly.

Q Of course, there is some evidence that there was a fur piece missing, but we have been unable to attach that to the defendant in any way? A I think that would be an element. As a rule, a criminal in committing a criminal act first considers the amount he is to receive for the chance that takes place, and there is hardly a man who would subject himself to take punishment of something that bore no value, showing the loss of the highest consciousness.

BY COMMISSIONER MONTROSS:

Q Can you attach any significance why he selected this clock? A No, I couldn't. It has often been held that night walkers are epileptic in character; that the lower consciousness is operating, and they come out and do certain things and figures and arithmetic, and putting things where they belong and taking them out and have no knowledge when they wake up of what they done. That is the automatic epilepsy.

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BY COMMISSIONER STEVENS:

Q Now, as to the condition of this man, you have stated that it was your opinion that at the time of the commission of this act he was unconscious? A Yes.

Q Of what he was doing? A Yes, sir; that is my opinion.

Q What is your opinion as to the future of such a man?

A The future would be this: It is fair to assume, this man having an attack which might be psychic epilepsy, that the element of alcohol entered into it, and it would be wise and safe to protect him from himself. If he got another attack, there might be an assault. It is well to anticipate that, although, in the meantime, while he has been with us, there has been no signs; yet it would be wise to anticipate what might happen. I would leave that to your own wisdom to pass upon.

The Commission thereupon adjourned the further hearing of the case to Friday, July 18th, 1919, at two-thirty o'clock P. M., to meet in the Sheriff's Room, of the Criminal Courts Building, 32 Franklin Street, Borough of Manhattan, New York City.

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New York, July 18th, 1919.

The Commission met pursuant to adjournment.

Present: William R. Montross, Esq., Charles W. Stevens, M. D., and Samuel T. Silverman, Esq., Commissioners; Mr. William Gallagher, representing the District Attorney's office; and Albert Jensen, the defendant.

MARTHA FISKE, called as a witness, being first duly sworn, testified as follows:

BY COMMISSIONER MONTROSS:

Q What is your name? A Martha Fiske.

Q Where do you reside? A At present at the New York Hospital, 8 West 16th Street.

Q Are you a nurse in the hospital? A I am.

Q How long have you been there? A I have been in that hospital six months.

Q Had you ever been there before? A Not in that hospital.

Q Where were you before you were in this hospital? What hospital were you? A Bloomingdale Hospital, White Plains.

Q And during the time that you have been in the New York Hospital, have your services been of the same nature?

A Yes.

Q What were those services? A Of a nurse.

Q And were you in the same ward all the time? A Not all the time.

Q Tell us, if you please, in what wards you served and

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at what times; whether at day or night? A I served in Ward "G", the first ward that I was on for about three months - ten weeks that time.

Q And between what dates was that service? A January 19th to sometime in May, I think.

Q And after May, where were you? A In "F-1" children's ward, and since Monday, Ward "M".

Q While you were in "F-1" were you on duty during the day or night? A Day.

Q And in Ward "M", night or day? A Day.

Q So the only time you have been on duty at night was while you were in Ward "G"? A Ward "G".

Q Have you ever seen the defendant before? A I have.

Q Will you please tell us where you saw him? A I saw him on Ward "G" when I was on night duty.

Q And when was that? A For a period of five days. I can't place the time exactly.

Q But for five consecutive days? A Nights rather.

Q Five consecutive nights. Was he employed in the hospital at that time? A He was.

Q What were his duties? A That of an orderly.

Q In Ward "G"? A In Ward "G".

Q Were his duties such that you had an opportunity to observe him on each of those five nights? A I did.

Q How much of the time during the night of each of those five nights did you see him? A At any time in the night,

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when I called for him when he was needed.

Q. How many times each night approximately do you suppose you called upon him to help you? A. As much as I needed him. I couldn't tell you.

Q. As many as six times? A. More than that probably.

Q. Probably as many as a dozen times? A. I think so.

Q. Will you kindly tell us what, if anything, you observed about him at that time? A. When he first came there we considered him unusually good.

Q. Considered him, what? A. Unusually good. He was kind to the patients, and the patients all liked him, and he was always willing to do everything he was asked to do, and if anything extra was asked of him to do, he was always willing to do it.

Q. Would you say, from looking at him now, that his appearance then was better than it is now or contrary? A. I think he was flesher then?

Q. He was flesher then than now? A. I should think so.

Q. Do you notice anything now different in his appearance when he was then? A. He isn't quite so animated now as he was then. He is very quiet. I only saw him walking.

Q. Did he seem to understand fully what was asked of him? A. He did at first, and then later he didn't seem to grasp things.

Q. Did you notice anything about his appearance or his actions to indicate that he was not fully conscious of what

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asked of him or what was said to him? A Yes, I don't think he was.

Q What was there about his actions that indicated that to you? A Well, at times when he had to be reminded of things.

Q Did you ever notice that he appeared to indulge in the use of alcohol? A He might have.

Q What was it to lead you to believe that? A Well, he acted as if perhaps he might have.

Q Can you describe what his actions were that led you to think so? A Well, we couldn't depend on him as much as we ought. He neglected things and didn't seem to be conscious that he was neglecting things.

Q Did you ever notice from his breath that he appeared to have been using alcohol? A I think he had, slightly; yes.

Q Was he ever apparently ill at any time during the five nights you saw him? A I think not.

Q You think not? A No, I think not.

Q Did he ever complain to you of feeling ill or out of sorts? A Yes, I believe he did.

Q What did he say to you, if anything? A I think one night he complained of his head.

Q He complained of what? A Of his head, I think.

Q Did he ever ask you for anything to take to help his head? A I don't remember.

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Q Did you notice anything at all in his manner of speech that was unusual? A I don't think so.

Q As far as you remember, he used good English? A As far as I remember. I didn't hear him say a great deal.

Q As far as you remember, was his English the same apparently as any other American? A No, not quite.

Q In what other respect was it different? A I don't know. As I remember I think he cut letters short though.

Q Was there anything in his speech to indicate that he wasn't a native of the United States? A Yes; I don't think that he was.

Q From the way he spoke, of what country would you say he was a native? A Perhaps of the United States, but I thought of Irish descent.

Q Was there a brogue in his speech? A No; there wasn't a brogue.

Q What was there to indicate that he might have been of Irish descent? A I really couldn't tell you.

Q You didn't notice anything unusual in his manner of speech? A No.

Q Nothing pronounced that would indicate that he was of any particular nationality? A Not definitely, no.

Q Did he tell you that he had been in the army? A He or some one else did.

Q Did he say that he had been wounded in the service of the army? A Yes.

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Q What was the nature of his wounds, if he told you anything about it? A I don't remember, except there was some injury to the head.

Q Did he say that his injuries had affected his health in any way? A I think not.

BY COMMISSIONER STEVENS:

Q Are you a graduate nurse? A No, I am not a graduate nurse.

Q You say that he complained to you about his head? A I think that he did.

Q Have you any recollection of what he said at the time? Was it a headache, or did he speak of something else? A No, I think he said his head pained him. That is the way he expressed it.

Q He said it pained him? A Yes, I think so.

Q Have you any recollection of him saying about being dizzy at any time? A No, but I think that he was.

Q What makes you think that he was? A Because I remember one night seeing him take hold of the medicine cabinet, and I think that was the night that he complained of his head.

Q And he took hold of the side of the medicine cabinet? A Yes.

Q Can you recall whether you had any impression that he had been drinking? A No, I don't think he had at that time.

Q But you have a distinct recollection that he took hold

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of the medicine cabinet? A Yes.

Q Did he appear as though he was going to fall? A Yes, and that was the night that he complained of his head. He said his head pained him.

Q You say you served in Bloomingdale? A Yes.

Q How long were you there? A Three months.

Q Had you anything to do in that time with insane patients? A I did.

Q Did you see epileptics? A Yes.

Q Did you see any people who suffered from what is known as petit mal attacks of epilepsy? A I think so. Yes, I am sure that I had.

Q Well, just describe it briefly? A Well, there is dizziness and slight vertigo. I don't believe I can tell you.

Q Of course, they are variable in their degree, I will admit that. But now did you see anything about Jensen that would make you suspect that he might have had such an attack? Was it in any way similar that you ever saw in Bloomingdales? A Yes; yes, I have seen things very similar.

Q Were you near him at the time that he took hold of the cabinet? A No, but I went up there, because it was unusual for an orderly to be near the medicine cabinet, and he was new.

Q Did you speak to him then? A Yes; I asked him what was the matter, and he said his head pained him. I think

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that is what he said.

Q Did he appear to be perfectly conscious and know what he was saying? A I don't know. I don't know that he did. I think he was conscious of what he was saying, but I don't think then he realized a great deal.

Q Would you say he was in a normal mental condition at that time? A No; I don't think he was in a normal condition. He was dazed.

Q Did that last for any length of time? A No. I don't know, but only that he was not as much on the job as he had been perhaps the first part of the evening.

Q He was forgetful? A Yes, he was forgetful. He didn't seem to realize what he had to do.

Q He went about his work in a confused condition? A Yes.

Q Was this the only time that you saw him in a condition of this sort? A I thought it was, except the last of his being there he wasn't nearly as efficient as he was the first two months.

Q Did he leave before you left the ward or after? A Before.

Q Do you know why he left? A I reported him to the night supervisor as not being exactly responsible to take charge of so many very sick patients that we had at that time.

Q Did he make any mistakes in his work? A No; he didn't

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make any mistakes, but I was afraid that he might.

Q Did he seem to you negligent, or was he incapable of doing the work? A I don't think it was negligence. I think he meant to do it, but I don't think he could. He couldn't grasp what he had to do.

BY COMMISSIONER MONTROSS:

Q Have you seen him since the five nights you were at the hospital? A Not until to-day.

Q Do you know anybody else in the hospital who observed him while he was there? A No one that observed him particularly. I don't think.

Q No one, what? A I don't think so.

Q Was there any other nurse on duty at that time in the ward? A No; not in the night ward.

Q Do you understand that he was discharged from the hospital? A I didn't understand why he left. I don't know whether he was discharged or not.

Q But he didn't appear again in the ward after you made the complaint? A No, I think not.

Q To whom did you make the complaint? A Night supervisor.

Q This lady sitting here? A No. She is not at the place now.

Q She isn't at the place? A No.

Q Have you heard anything from the defendant, either directly or indirectly, since he left the hospital? A No.

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Q What was the first thing that you heard about the case? A About the case, to-day.

Q About this matter to-day? A I heard that I was to be subpoenaed at the Training School office.

Q When was that? A I can't tell you that definitely, a day before yesterday or a day before that.

Q That was the first you heard of Jensen since he left the hospital? A Yes.

Q Do you know anybody who worked in any hospital where Jensen did before he came to the New York Hospital? A No, I didn't know nothing about him.

Q You don't know anybody who is acquainted with him at all? A No, I don't know anything about him. I never saw him until he came on the ward and never saw him since he left the ward.

MAXWELL G. JOHNSTON, called as a witness, being first duly sworn, testified as follows:
BY COMMISSIONER MONTROSS:

Q What is your name? A Maxwell G. Johnston.

Q Where do you live? A United States Marine Hospital, Stapleton, Staten Island.

Q You are connected with the hospital? A Sir?

Q You are associated with the hospital? A Yes, sir.

Q In what capacity? A Clerk.

Q Beg pardon? A Clerk.

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Q How long have you been there as clerk? A Almost thirty years.

Q And at present employed as such? A Yes, sir.

Q Have you ever seen this defendant before? A Yes, sir.

Q Will you please state where and when? A At the hospital.

Q And when? A In April to September, 1913.

Q Was he employed there? A Yes, sir.

Q Will you tell us in what capacity? A Nurse.

Q About five months that was he was employed there? A From April to September.

Q How often did you see him during that time? A Quite often. There is the copy of the card that we have on his case; that's all.

Q How often do you suppose you saw him? A Well, I couldn't tell you. He was on night work.

Q You are on day work? A Yes, I am on day work.

Q On the occasions that you saw him, did you notice anything particular about him? A Never.

Q There was nothing about his appearance or actions to make any impressions on you? A Not in the least.

Q He appeared to be a normal individual? A A normal individual.

Q Were you ever present when he was directed to do anything by anybody? A No, sir.

Q Did you ever talk to him? A Well, I suppose I did,

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but I can't remember. It is too far gone.

Q Looking at him now and from your recollection as he appeared then, do you notice anything whether his appearance is different? A At the time when he was with us he appeared to be a man of neat appearance. He doesn't seem to be as neat now as he did then. Otherwise I don't see nothing different.

Q He appeared to be in the same condition of health? A Yes.

BY COMMISSIONER STEVENS:

Q What was his reputation in the hospital? A So far as I know it was alright.

Q Do you know if he was ever supposed to be a drinking man? A No, sir; not to my knowledge.

Q You never knew of his being a drinking man? A No, sir.

Q You never knew of his being intoxicated around the hospital? A No, sir.

Q Behaved pretty well? A He behaved alright.

Q And as far as you know, he was liked by the other people there? A Yes, sir.

Q Did his work there? A There is nothing against him so far as I remember.

Q Your card here says that he resigned. Do you know anything about the circumstances connected with that resignation? A No, sir. You see, in hospital work they go and

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come all the time. If a man gets a better position, of course, he resigns.

Q Well, if he had been dismissed by the hospital authorities, the card would have shown it? A The card would have shown it; yes, sir.

Q So that it is evident from this card that he left of his own accord? A He left of his own accord according to that card.

BY COMMISSIONER MONTROSS:

Q Do you know anybody else at the hospital now who was acquainted with him at that time? A Yes, I think there is one man there.

Q What is his name? A His name is McDonald.

Q Do you remember his first name? A Hugh.

Q What were the nature of his services? A He is a clerk at the present time.

Q Day or night? A Day.

Q Do you think he was personally acquainted with Jensen? A Why, I think he was. He was a nurse and he would have more chance to be acquainted with him.

Q At that time he was a nurse? A Yes, sir.

Q Day or night? A Day.

Q And do you recollect whether Jensen was day or night nurse? A He was night nurse.

Q Would McDonald be likely to meet him being a day nurse and Jensen being a night nurse? A Yes, I think he might.

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Q You think he did know him? A Oh, yes; I do.

Q Did you talk to McDonald about him? A No, sir.

Q What makes you think that he did know him? A Because McDonald was there at that time. He is one of our old employees.

Q You don't know of anything in connection with the defendant that would be of any interest to us as indicating his mental or physical condition at that time? A No, sir; I do not.

Q Do you think McDonald would know anything? A I think he might. I don't know. If anything happened while Jensen was there I certainly would remember it. We can't remember everything that goes on, but if anything happened I think I would remember it.

BERNARD TEITGEN, called as a witness,
being first duly sworn, testified as follows:
BY COMMISSIONER MONTROSS:

Q What is your name? A Bernard Teitgen.

Q Are you connected with Roosevelt Hospital? A Yes, sir.

Q In what capacity? A Storekeeper.

Q How long have you been there? A Seventeen years.

Q And at present employed as such? A Yes, sir.

Q Have you ever seen this defendant before? A Yes, sir.

Q Where? A At the Roosevelt Hospital.

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Q Where? A At the Roosevelt Hospital.

Q When was that? A That was about five or six years ago.

Q Five or six years ago? A Yes. I have the record here that I got out of our books. He was there twice.

Q Do you know how long he was there at that time? A I couldn't remember how long.

Q Was he there several weeks? A Oh, yes; longer than that.

Q Several months? A Yes.

Q And how often did you have occasion to see him? A I seen him pretty nearly every day there.

Q That was about 1912? A Yes, about 1912.

Q Did you notice anything particular about his actions that made any special impressions upon you? A No, I couldn't tell you anything.

Q He seemed to be a normal individual? A Yes.

Q Did you ever notice that he had been indulging in the use of alcohol? A No.

Q Never saw anything to indicate that? A No, not at all.

Q Did he seem to understand fully what was asked of him? A You see I am over there away from him from where he was. We never worked together.

Q You never worked close by? A No.

Q Did you ever talk to him? A Yes.

Q Did you observe anything particular about his speech?

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A No.

Q Nothing unusual about him? A No.

Q Did he ever say anything to you about his condition or anything of that sort? A No.

Q Do you know anything at all about him that would be of interest to us in regard to his mental condition? A No.

Q Or his physical condition at that time? A No.

Q Do you know why he left the hospital? A No; I couldn't tell you that.

Q You know nobody there that knew him at that time, knew him well? A There was a Mr. Stock. He isn't there at the present time. There are a few people there yet. Mr. Stock hires all the help.

Q Mr. Stock probably knew him well? A Yes.

Q When will he be back? A About two weeks.

Q Do you know whether he was connected with the hospital at any other time? I understood you to say that he was there twice. Q That is, our record book shows that.

Q You don't know anything about the second time? A No; I remember I seen him.

Q You saw him the second time? A I have seen him. He was there for some time.

MARGARET CAULDWELL, called as a witness, being first duly sworn, testified as follows:

BY COMMISSIONER MONTROSS:

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Q What is your name? A Margaret Cauldwell.

Q Where do you live? A Nurses' Home, Randall's Island.

Q How long have you been there? A I have been there since the 26th of March.

Q 1919? A Yes.

Q What are your duties there? A I am in charge, nurse of two wards, west end B.

Q Did you ever see this defendant there? A Yes.

Q When was that? A Well, roughly speaking, it was about six weeks ago.

Q How long was he there then? A I couldn't say exactly, but it would be about two weeks.

Q At that time were you on duty in the day or night duty? A On day duty. I have been on day duty.

Q And was this defendant employed in your wards? A Yes, he was.

Q What were his duties? As an attendant in the Babies ward.

Q And did you have occasion to see him frequently? A Not very frequently. I had another nurse in that ward also and he was the attendant, and an ungraded nurse, and she had charge there, of course, under my supervision, and he helped out as best as he could.

Q Did you see him once or twice a day? A Oh, about a dozen times a day.

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Q Did you notice anything particular about his appearance that made any impression upon you? A In the first place I noticed that he didn't understand English very well, and in giving orders he seemed to hesitate just because he didn't seem to understand English. To me he spoke broken English. At first I thought he was German, but otherwise he was very willing to obey.

Q And as far as you could see, his failure to understand was due to the fact that he didn't understand English? A Yes; he kind of hesitated, and I think he didn't understand English very well.

Q He hesitated in carrying out the orders which you gave him? A Yes.

Q Did he ever appear to be under the influence of alcohol? A No; never.

Q Never noticed anything that would indicate that? A No; never.

Q Was he ever absent from duty during the time he was employed there? A No.

Q Always on duty? A Yes.

Q Did he appear to be in good health? A Well, while he was there. He was there about a week and he got a very bad cold. He didn't complain to me about it and I directed the attention of the doctor to this man as having a severe cold and the doctor wrote out a prescription and gave him medicine to take. I think it was because he wore very bad

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shoe leather and the weather was damp, and he had a cold in his head.

Q You didn't notice anything else that he wasn't in good health? A No.

Q Did he ever complain of headaches? A No.

Q Did he have dizzy spells? A I never noticed any.

Q Did he ever ask you for any headache tablets? A No; never.

Q Did he tell you anything about his services in the army in France? A No; he never told me a word about it. I have another ward to take care of - twenty-four patients in one ward and eighteen children where he was working.

Q He never told you about being injured in France? A No; I had no conversation with him. I just gave him his order. That was all.

Q Do you know anybody over there at the Island who would be likely to be better acquainted than you are? A No, I do not.

Q You had probably as good an opportunity to observe him as anybody over there? A Yes, I think I have.

Q Do you know anybody who was intimate with him in a friendly way while he lived there? A No.

Q Did he chum with anybody? A I didn't notice.

Q Where were his living quarters while he was there?

A He lived in the orderlies quarters called the Red House. He slept there and went for his meals and came to

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me over at six o'clock in the morning, and he went to dinner at twelve, and came back at half-past twelve, and worked until six. I think he was there about two weeks, roughly speaking.

Q And those two weeks ended about how long ago? A As far as I can remember, it is about six weeks ago. I may be wrong, because I have a lot of duties to attend and, of course, I can't give much attention to a man like this. I think it was sometime in May.

Q Now, if I told you that this defendant was indicted for a crime committed on the 4th of May, 1919, which is more than two months ago - A Well, it may be. I just don't remember, because the superintendent called me up yesterday and, of course, I have a lot of matters to attend in my ward, and I had no time to think it over when he came or how long he was there. I just give a rough guess. It was about six or eight weeks ago.

Q Have you heard anything about the defendant and the trouble he got in up to the time you were asked to come in? A Only yesterday when the superintendent called me up and asked me if I would come here.

Q What did she say to you? A She gave me the address and asked me to come here. That's all she told me about. I didn't even hear his name mentioned since he left the hospital.

Q Then you don't know anything about the circumstance of

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his arrest? A No; the superintendent simply asked me if I remembered the orderly Jensen. We have so many that come and go and I had to consider for a few minutes, and she said, "You remember the Swedish orderly," and, of course, I remembered him, and she asked me if I would appear at this place this afternoon at two-thirty, and that was all that she told me about it.

Q In looking at the defendant now, do you notice any difference in his appearance than he was then? A I think he is much more emaciated now than he was then. He seemed to be much brighter then than he is now.

Q Apparently, then, he was in better health then than he is now? A I think so.

BY COMMISSION SILVERMAN:

Q Did he appear at all forgetful? A Beg pardon?

Q Did he appear forgetful? A I will tell you; he seemed to hesitate when I gave him an order, as if he didn't seem to understand the English.

Q Did he ever forget when you gave him an order; did he ever forget? A No; he was very willing to obey. I asked him to see that the boys would do this and that. Of course, at first, he seemed to hesitate, but I concluded that he didn't understand the English, and he was very willing to obey though.

BY COMMISSIONER STEVENS:

Q You say he never complained to you about being troubled

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with headaches, or anything of that description? A No; never.

Q Did his work well? A Well, as far as - not exactly well; the best as he could, you know. It was a children's ward, and I don't think he had much acquaintance with babies, but to me he seemed to work pretty good - fairly well. Of course, he might do better.

Q Do you know why he left the hospital? A No; he came one morning at half-past six and worked for about an hour, and another orderly came in and they both went up. I don't know why he left, or whether he was discharged or resigned or anything.

Q And you hadn't heard anything about him? A No, I didn't hear anything. In fact, I didn't know that such a person was living until yesterday afternoon when the superintendent told me to come down here at two-thirty.

BY COMMISSIONER MONTROSS:

Q You don't know of any one in the hospital that would know more about him than you would? A No; I think he was a complete stranger.

Q There was no one who had a better opportunity to observe him than you did? A No; I don't think so.

EDGAR C. HAYENOW, called as a witness, being first duly sworn, testified as follows:

BY COMMISSIONER MONTROSS:

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Q What is your name? A Edgar C. Hayehow.

Q And where do you reside? A At the hospital, St. Lukes 113th Street and Amsterdam Avenue.

Q What are your duties? A I am one of the assistant superintendents.

Q And how long have you been connected with the hospital?
A Since March 3rd of this year.

Q Have you brought with you some of the hospital records?
A I brought the employes' record.

Q And do you find anything in that regard in connection with one Albert Jensen? A I do. I see he was employed April 29th, 1914; discharged December 15th, 1914, and, as I see here, at the time he was arrested for annoying women on the street.

Q That is that seemed to appear in December? A That is when he left the hospital; so I would surmise he was discharged for that.

Q As a result of that charge? A As a result of the charge here.

Q Is there anything else in the record that would be of any interest? A I see he was recommended by the New Jersey State Hospital.

Q That's all? A That's all we have here.

Q Have you ever seen the defendant before? A No.

Q And you don't know of any one in the hospital who is acquainted with the defendant or seen him before? A I do

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know that the assistant director of nurses, who is on her vacation, is very liable to have seen him before.

Q But she would have seen him probably only in connection with employing men as an orderly? A Yes.

Q And probably didn't have an opportunity to observe him very frequently? A I am almost sure she didn't have much opportunity.

Q You don't know of any one else who is acquainted with him? A That's about five years ago. If the nurses on duty that time would have graduated in the meantime, she would not have been in the hospital and we wouldn't know where she is.

Q You have questioned various people in the hospital?

A I have requested the director of nurses who had questioned all the people in her own department.

Q Every nurse in regard to Jensen? A Yes.

Q And you haven't been able to find anybody who knew anything about him at the time? A No, and I don't imagine that the records of the nurses - assistant director would know, but she would be back to the hospital on September 1st.

Physical examination of the defendant was made by Commissioner Stevens, the medical member of the Commission:

There is a scar over the right orbit, including the right eye-brow. Also evidences of a fracture of the right side of the nose.

There is also a deep depression in the parietal

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region on the right side indicating a depressed fracture of the skull at that point.

The pupillary reflex of the left eye is normal; that of the right is very sluggish, the pupil only contracting to a slight extent under the influence of light. Both eyes react to accommodation.

Ophthalmoscopic examination shows marked pallor of the temporal side of the right optic disk, and pallor of the left optic disk not as marked as in the right eye.

All the deep reflexes are exaggerated. There is slight swaying in the Romberg position and slight incoordination of the upper extremities. There is a slight tremor of the extended hands, and a constant fine tremor of the facial muscles, especially about the mouth at all times.

The Commission thereupon adjourned the further hearing of the case to Friday, July 25th, 1919, at four o'clock P. M., to meet in the Sheriff's Room, of the Criminal Courts' Building, 32 Franklin Street, Borough of Manhattan, New York City.

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New York, July 25th, 1919.

The Commission met pursuant to adjournment.

Present: William R. Montross, Esq., Charles W. Stevens, M. D., and Samuel T. Silverman, Esq., Commissioners.

JAMES J. RILEY, called as a witness, being first duly sworn, testified as follows:

BY COMMISSIONER MONTROSS:

Q What is your name? A James Joseph Riley.

Q Where do you live? A 279 West 117th Street.

Q Are you acquainted with Albert Jansen? A I know him from the army.

Q You were in the army with him? A I was in his company.

Q What company was that? A Company "C", 11th Engineers.

Q When were you with him in the army? A When was I with him?

Q When were you with him in the army? A Over on the other side.

Q Do you remember what date it was; between what dates?

A No.

Q Where were you when you were with him; where were you located? A Working on a track in a town called Ringville.

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

Q That was in May, 1917? A July, 1917, we went over. We enlisted in May.

Q Enlisted in May and went over in July? A Yes.

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Q Do you remember when he was injured? A He got a piece of shrapnel right across the eye.

Q Did you see him the day he was injured? A I saw him working, but I didn't see him taken away, but I found out he was injured.

Q You were not there at the time he was injured? A I was about fifteen yards working with another gang.

Q You didn't see him after he was injured? A No, sir.

Q Did you see him since? A No, sir.

Q Did you see him often while you were over there? A While on regular duty, and during the day I would meet him.

Q Usually meet him every day? A Yes, sir.

Q Do you remember anything peculiar about him? A He seemed to be a different fellow. He was peculiar. He was different from all the rest of the fellows. He was sort of light headed, or some kind of that.

Q Did he understand what was said to him? A Oh, yes.

Q He obeyed orders promptly? A He was in lots of trouble.

Q How did he get into trouble; what sort of trouble? A A. W. O. L's.

Q What does that mean? A Absent without leave.

Q Did you ever know him to get intoxicated? A I don't believe I did; no, sir.

Q Would you say from your observation of him that he was a normal individual, or was he out of the ordinary in some

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way? A He seemed to me that he was out of the ordinary.

Q He didn't seem to be normal? A No, sir.

Q Do you know whether he was ever accused of any crime of any kind over there? A Well, he was just - for those A. W. O. L's, that's all.

Q Do you know anything else about him of any particular interest? A No, sir.

BY COMMISSIONER STEVENS:

Q Now, you say, that you didn't think he was normal.

A Yes.

Q In what way do you think he was different from other men? A From his general actions.

Q Well, do you think that was due to the fact that he was a foreigner and was not familiar with the ways of the other men? A I couldn't just say what the difference was, but he didn't seem to be a normal man.

Q Give us some instances of something that he did that you think was peculiar and abnormal? Can you think of some little incident connected with the camp life that would throw a little light on your statement? A Well, whenever he would get convicted of an A. W. O. L. he would always think that they were wrong; that he wasn't treated right, and that they were all against him because they convicted him.

Q In other words, he thought he was always in the right?

A Yes.

Q Was his ordinary behavior good? A Well, he was good.

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Q Beg pardon? A Yes, it was good.

Q It was good? A Yes.

Q Did he have any peculiar habits that were noticeable by the others? A No.

Q How was he considered by the other men, as a good fellow, or otherwise? A He was considered a good fellow.

Q He went around with the other men a good deal, did he?
A We didn't go around much, but he had a few pals to go out with.

Q And did he go out with his friends usually, or did he go by himself? A He used to pal with one fellow most of the time. He didn't mingle much.

Q Who was this one fellow? A His name was Daly, I believe.

Q Was he made fun of and used as a butt? A They used to make fun of his language, and the way he would speak and the remarks he would make.

Q He was a pretty good soldier? A I wouldn't call him good; fair.

Q He was always ready to go ahead when the others did? A Oh, yes.

Q Did you consider that he was of normal intelligence; that he was bright and active as the other men? A Well, he could do anything in the line of work that we got. We would do it. If he was told to do a thing, he would do it.

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Q He understood his order? A Yes.

Q He never misinterpreted it? A No.

Q Did you ever know of his being ill while he was connected with the company? A No, I don't remember him ever being sick.

Q Have you ever heard him complain in any way of any trouble? A No.

Q Never heard him complain of attacks of dizziness? A No.

Q Headaches or anything of that kind? A No.

Q But beyond these little troubles for absence without leave, he never got into any trouble in the camp? A Not that I know of; no.

WILLIAM W. ARMSTRONG, called as
a witness, being first duly sworn, testified as follows:
BY COMMISSIONER MONTROSS:

Q What is your name? A William Walter Armstrong.

Q Where do you live? A 66 East 129th Street.

Q Do you know Albert Jensen, the defendant? A As one soldier knows another; yes, sir.

Q Were you in the 11th Engineers? A Yes, sir.

Q Company "C"? A Yes, sir.

Q Did you enlist at the time that Jensen did? A Well, approximately the time.

Q And went over in July when he did? A Yes, 14th of

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July, 1917.

Q And did you see him in July until he was injured?

A Yes, I saw him practically every day.

Q Did you see him after he was injured? A No.

Q You were not present at the time he was injured? A No; I was just a few feet away from him.

Q You heard the testimony of the other witness. Can you tell us anything that you observed in connection with him while you were over there? A Well, the character of Jensen as a soldier I always predicted that he was a little bit light or flighty. That was my own opinion. I was the engineer, senior grade, Company "C".

Q What rank did you hold? A Master Engineer, Senior Grade. I was promoted to that rank and held that rank at the time Jensen was injured, and he was working under Sergeant Garret.

Q Did you observe or hear anything of him that would indicate that he wasn't normal? A Well, I always just figured in my mind - I wouldn't ask him to do anything personally. I would send some one with him, but in my mind I would say that he was out of his head on account of the trouble he got amongst the company; A. W. O. L. and little petty larceny. It benefited neither party and it would get him into trouble.

Q Apparently, he was not a responsible person? A No; he wasn't responsible. I never did figure him responsible

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for anything that he done. That is the reason why I never send him out with anything to do personally himself.

BY COMMISSIONER STEVENS:

Q Did you ever know of his getting into other trouble rather than these little faults that you are speaking of, the absence without leave? A Well, he would get a little too much liquor once in a while.

Q You have seen him under the influence of liquor? A Oh, yes.

Q Only once? A Only once. I caught him once and had him court martialed myself.

Q For being under the influence of liquor? A Yes, sir; unfit for duty. I couldn't say that he was drunk, but he was unfit for duty. That is the term we use in the army.

Q He was in that condition in the camp? A Yes, on the works, not in the camps, but on the works. He was orderly for the officers one-half a day, and then at one o'clock he reported out on the works to me to dig trenches. So I always had little special jobs laid out for the orderlies in the afternoon. That was no task work. The rest of it was task work. I had little jobs which were incomplete and I put Jensen on to fix these up, and about four o'clock in the afternoon I looked along the line and I couldn't find him. I looked for him again and he had his equipment there, his gun and cartridge and naturally I had to call the sergeant to report it to the lieutenant, and I was

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waiting for Jensen to show up, and I couldn't find him. So this man Daly, who is his pal, the man that he went with, I said to Daly, "Do you know where Jensen is?" "No," he said, "I don't." I said, "I will stand here until he shows up. I think he is over there in the grass." The company was forming up in a cut that we do specially for that purpose so that we could get home under cover, and when Jensen showed up, why he was in an unfit condition for work. So all I could do with him was to have him court martialed, being drunk on duty, and we had to take him home, of course. We had to take him in the camp.

Q Was that the only time? A That was the only time I saw the man unfit for duty.

Q What did he get for that? A He got three months in the jug for that. I don't know how you would term that.

Q Three months? A He got three months in jail for that. He got court martialed by Colonel Parsons. He was at the time Lieutenant-Colonel.

Q So that he was confined in the jail over there for three months? A Oh, yes. Just for such little offenses like that the least little bit intoxication of liquor makes a man flighty or unfit for service, as we class it. It seems if it is a glass of beer or a little drink of wine, or something of that line, it seems that his mind is weak in my estimation. That is the way it was over there. I always figure a man if his mind is weak, usually a man who plays his tricks like

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that, always gets the worse of it in the end.

BY COMMISSIONER MONTROSS:

Q This particular time when you found him that way, did he comprehend what was said to him? A Oh, yes; he would obey my order, but he couldn't navigate. So I had to report him to the lieutenant in charge; that is, Lieutenant Marshal, so the lieutenant gave me instructions to court martial, which I had to do.

BY COMMISSIONER STEVENS:

Q Did you ever hear of his getting into similar trouble at any other time? A No, never did.

Q That is the only occasion that you know of? A That is the only case that I had anything to do.

Q Because he was intoxicated? A Yes, sir.

Q Well, now, you stated that you thought that he was peculiar; he wasn't like the other men? A Not altogether; no.

Q Do you think it was due to his condition as a foreigner or do you think it was simply his normal condition? A Well, it looked to me like a wandering mind. It seemed he would ask you a question and talk upon this subject for a little while, and the first thing you know he would jump to something else.

Q Was he very talkative? A Well, he was. Apparently he was very intelligent at your first impression of the man, but to hear him explain himself then you would form your

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opinion as a man usually does - as one soldier forms an opinion of another. As you judge human nature through life, you always have some --

Q Your opinion of him was that he was somewhat erratic?

A He was unbalanced.

Q Unbalanced? A Yes, that is my honest opinion.

Q You never knew of his getting into any trouble of any kind other than this one occasion? A No. I don't know what he is in trouble for now.

STERLING V. MAC GREGOR, called as a witness, being first duly sworn, testified as follows:
BY COMMISSIONER MONTROSS:

Q What is your name? A Sterling Victor MacGregor.

Q And where do you live? A 332 West 51st Street.

Q Are you acquainted with Albert Jensen, the defendant, in this case? A What?

Q Are you acquainted with Albert Jensen, the defendant in this case? A Yes, sir.

Q Where did you meet him? A I was in the same company; in the same regiment with him.

Q Company "C", 11th Engineers? A Yes, sir.

Q Did you go over to France when he did? A Yes, sir.

Q Were you present the day he was injured? A No, sir.

Q Had you heard of him being injured? A I was about three hundred yards on this side of the cut.

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Q You knew he was injured? A About half an hour afterwards, I did.

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

Q You heard the questions and answers of the two previous witnesses. Will you kindly tell us anything that occurs to you that might be of interest to us in connection with Jensen while you were over there with him? A I never have spoken to the fellow more than a dozen times, I don't think. A few times I did speak to him he seemed like a nice sociable fellow. We seemed to be a little bit queer. I don't know just what you call it; queer I should say, but nothing bad about the fellow. I never knew anything that he done wrong as far as being absent at times without leave, but I don't know anything else whatever about the fellow.

Q Did you ever hear anything about him? A No, sir; only that he was court martialed there. That's all I knew.

Q As a matter of fact, you didn't know him very well?

A No, sir.

Q You didn't say very much to him? A No, sir; I saw very little of him. I knew that he worked as an orderly for the officers, and I believe that is what he was doing most of the time over in France.

Q What were your duties with the company? A I was working on the tracks on the different works.

Q Were you a private? A I was a corporal.

Q You were a corporal? A Yes, sir.

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Q He wasn't under your charge? A No, sir; not at any time.

Q You didn't occupy the same tent that he did? A No, sir; never.

BY COMMISSIONER STEVENS:

Q Did you ever know of him being intoxicated? A I never seen him intoxicated, but I heard some of the boys says he was. I never saw him.

Q You knew of this incident of his being court martialed? A Yes, I know that he was court martialed.

Q And why it was? A Yes, sir; I believe that too.

Q And is that the only occasion that you ever heard of when he was intoxicated? A Yes, sir; that is the only time.

Q Never saw him yourself under the influence of liquor? A No, sir.

Q What did you think of him in regard to his ability to do the work that was given to him? A I believe his work was not very hard from what an orderly has to do. I think it is very light duty. Of course, you would call it light duty more than anything else. Outside on the works it is pretty hard work.

Q And he didn't have very much of this outside work to do? A The majority of his work consisted of orderly work, from what I remember.

BY COMMISSIONER MONTROSS:

Q Would you say from what you observed of his mental and

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physical condition that he was incapable of any kind of other work? A I think orderly work was the right work for him, sir.

Q He wasn't of a high enough degree of intelligence to be a good soldier or be good for any other work except orderly work? A I don't think he would make as good a soldier as the other way. I didn't speak to him more than a dozen times, and he seemed to be a nice fellow. That is all I know.

The Commissioners thereupon adjourned the hearing and went into Executive Session.

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New York, July 25th, 1919.

Present: William R. Montross, Esq., Charles W. Stevens,
M. D., and Samuel T. Silverman, Esq., Commissioners.

The Stenographer furnished the Commissioners with the full transcript of the minutes of the various proceedings and the Commissioners then went into Executive Session.

EXECUTIVE SESSION:

After discussing the evidence and all the matters brought to the attention of the Commissioners, the Commissioners came to a final determination of the questions submitted to them by the Court, and decided that the defendant is in such a state of idiocy, imbecility, lunacy or insanity so as to be incapable of understanding the proceedings and of making his defense on the trial of the indictment pending against him, or to consult with counsel, and that the defendant was in such a state of idiocy, imbecility, lunacy or insanity at the time of the commission of the crime for which he has been indicted.

The Stenographer was thereupon directed to immediately prepare such a report for the signature of the Commissioners.

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COURT OF GENERAL SESSIONS OF THE PEACE,
IN AND FOR THE COUNTY OF NEW YORK.

-----X

THE PEOPLE OF THE STATE OF NEW YORK :

- against - :

ALBERT JENSEN. :

-----X

IN THE MATTER OF THE EXAMINATION INTO :
THE MENTAL CONDITION :

-of- :

ALBERT JENSEN,
An Alleged Lunatic. :

-----X

REPORT and
FINDINGS
of
COMMISSION
in
LUNACY.

We, the undersigned Commissioners, duly appointed
by an order of the Court of General Sessions of the Peace
in and for the County of New York, filed in the office of
the Clerk of the Court of General Sessions, to examine into
the mental condition of the above named ALBERT JENSEN, and
to report to this Honorable Court, do hereby certify and
report as follows:-

We have taken the oath prescribed by law and have
duly and regularly met and were attended by a representative
of the District Attorney's office for the People and by
W.H. Weissager, Esquire, attorney for the defendant. We
have heard the defendant in his own behalf on several
separate sessions and he has been examined at much length

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both as to the testimony required of him and also in respect to his physical and mental condition by the medical member of this Commission, Dr. Charles W. Stevens. We have also examined all of the witnesses found material and available.

The witnesses examined in addition to defendant included, among others, the complaining witness, the night man in the apartment adjoining the premises where the crime was alleged to have been committed, on whose charge the defendant was arrested, the officer making the arrest, the Major of the defendant's regiment in France, several of his associates there and employees of various hospitals in and about New York where the defendant was at various times employed.

A physical, neurological and mental examination of the defendant was made by the medical member of this Commission.

Your Commission found by reason of the circumstances connected with this case that it was necessary, in order to properly reach the conclusions required of it, to examine not only into the history of the defendant himself, but also into the evidence and the circumstances attendant upon the alleged crime with which the defendant was charged.

The defendant was born in Copenhagen, Denmark, and is about thirty years of age. His parents, three sisters and a brother, all he ever had, are now living and have apparently always been in good health. His brother resides

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in this country but we have been unable to locate him, and as he has not seen the defendant for three or four years his testimony did not appear to be material.

The defendant resided with his parents until eighteen years of age, having attended school for eight years until he was fifteen years of age. He states that he did fairly well in school, had the usual children's diseases, but apparently suffered no permanent effects from any of them. His father is a practising physician, and from the time he left school until he was eighteen years of age the defendant did clerical work for his father and also studied nursing. When eighteen years of age he came to the United States as he felt the opportunities would be much better, and after arriving here was engaged for five years in the United States Coast Guard service and was located at Baltimore. He has been unable to remember the names of any of the people with whom he was associated there, so that we have been unable to examine anybody in regard to his mental condition at that time. When leaving the Coast Guard Service he apparently came to New York and up to the time of the declaration of war by the United States against Germany he was employed in various hospitals as a nurse and orderly. His recollection of his various places of employment seems fairly good, but he remembers practically no one with whom he was intimately acquainted. Apparently he has been inclined to keep to himself and not make close friends. This

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has resulted in our being unable to get any evidence of his mental condition during those years. Immediately upon the declaration of war he enlisted with the Eleventh Engineers, trained at Fort Totten for a month and went to France under the command of Captain Drew, who afterward obtained the rank of Major, and has testified before us. We have also been able to obtain the testimony of five or six of his associates while in France. They all contend that he was a good soldier, but was somewhat eccentric and was in the habit of getting intoxicated whenever the opportunity offered. Apparently he did not get so far under the influence of alcohol as to be helpless and appeared even during those times to understand what was said to him. He was in the service in France from May 1917 until November 1st, 1918, when he was wounded near Verdun. The testimony of Major Drew shows that he was very seriously wounded in the head, that the medical officer stated that his skull had been fractured, that his brain was exposed and that in all likelihood he would not survive. He was removed immediately to a base hospital, where he remained unconscious for a long time, and after being in the hospital for several months was sent to Camp Upton, where he was discharged for disability. The defendant claims that upon being discharged from Camp Upton he immediately came to New York; that he had accumulated upwards of \$260., which he had on his person, and upon the night of his arrival in New York was robbed of the \$260. in the hotel where he had

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spent the night. The loss of his money made it necessary for him to seek immediate employment, which he did in the hospital, and from that time until the time of his arrest on May 4th, 1919, he was employed at various hospitals. The testimony of the nurse in the hospital where the defendant was employed for five nights as an orderly shows that he was apparently in poor health, that he suffered from severe headaches, and one night the nurse noticed that he apparently had a bad dizzy spell, for she saw him holding on to the medicine cabinet. Her observation of his appearance led to her complaining of him to the superintendent, as she feared he was not competent to do his work properly and that it was not safe to have him in charge, and this resulted in his being discharged. The defendant states that the doctor in the hospital in France told him it would take a long time for his wound to thoroughly heal and for his skull to become normal, that he would probably suffer very severe headaches for a long time and that in his condition he should not use any alcohol, as the result might be very serious. His testimony shows that he did have these severe headaches at very frequent intervals, that he took powders and other things to relieve them. On the date of his arrest he apparently was employed at the Metropolitan Hospital, Randall's Island, and on that day came to New York at about six o'clock in the evening. He claims that he was suffering from a very severe headache on that day; that he

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rode on various trolley cars in New York hoping to relieve it, that in the evening he took headache tablets on two occasions and finally at someone's suggestion took a glass of brandy. From that time he claims to have no recollection of what transpired until he came to himself in the station house the following morning. The testimony of the witness on whose charge he was arrested is to the effect that he first saw the defendant near the building where the crime was committed mumbling to himself and feeling in his pockets. He had the appearance of a man intoxicated; that the defendant then moved on into the side street, but after the complaining witness had stepped into his building, reappeared in front of the building, walked along to the adjoining apartment, pushed in the screen in one of the windows and entered; the witness claims that he then tried to locate someone in the building for the purpose of getting into the room where the defendant had gone, but being unable to accomplish this, came outside, secreted himself, and later saw the defendant come out of the window with a clock under his arm; he attempted to grab the defendant, whereupon the latter threw the clock on the pavement and ran; the witness blew his police whistle and almost immediately the defendant was stopped by an officer and brought back, whereupon he claimed that the complaining witness had hit him or threatened to hit him and rambled a good deal about his service in the Army in France and other matters to such an extent that the officer making the arrest

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stated before the commissioners that he acted in a very erratic way and that he thought he was crazy at the time. This officer also noticed that he had been drinking and when he arrested him he seemed to be nervous and said someone was going to kill him. The officer also testified that the following morning the defendant seemed to have no recollection of what happened the night before. The testimony of Major Drew showed that between the time he last saw the defendant in France in November, 1918, and when he next saw him in April, 1919, his appearance had changed very much and he looked to be in very poor physical condition compared to what he had been before. In our examination of the defendant we have been unable to discover that he has any recollection of what happened on the night of his arrest after he took the drink of brandy. As to most matters previous to the time of his injury his recollection seems to be good, but as to dates, places and names of people with whom he has been associated since the time of his injury, his memory seems to be very poor. Sometimes he answers correctly, but his mind seems to work slowly upon being questioned as to recent events. So far as we have been able to find, he has never been charged with any crime before, except that the testimony of Frank Upton, a member of the Police Department, shows that he arrested him several years ago in New York for some trouble upon the street, but the witnesses upon whose complaint he was arrested failed to appear and prosecute him.

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so he was discharged. Upton also states that he was in the same regiment with the defendant in France and that he was the butt of all jokes aboard ship when going across. While in the service he also disobeyed orders at times in exposing himself unnecessarily, during a battle in the air, and at one time obtained a rifle and went out, contrary to orders, and tried to shoot one of the German air planes. Upton states that although he arrested the defendant several years ago and was with him in the regiment in France, the defendant had apparently failed to recognize him when he saw him in the Police Court at the time he was arraigned in connection with the crime of May 4th.

Your Commissioners have duly examined Doctors Lichtenstein and MacGuire, the former the resident physician of the City Prison and the latter the visiting physician; both have had the defendant under considerable observation and have made a personal examination of him.

The medical member of the Commission is of the opinion that the defendant is suffering from an incurable disease of the mind, that at times of high excitement or when under the influence of alcohol the defendant is in such a state of idiocy, ~~emb~~becility, lunacy or insanity as to be ^{un-}conscious of his acts and at such times might commit a serious crime. This opinion is concurred in by both Doctors Lichtenstein and MacGuire, who declare that the defendant's release

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might be dangerous to the community at large.

THEREFORE, having duly considered all of the testimony herein, and having made a personal examination of the defendant, and after careful consideration of all of the evidence adduced before us, we are of the opinion that the said ALBERT JENSEN is in such a state of idiocy, imbecility, lunacy or insanity as to be incapable of understanding the proceeding or making his defense at the trial of the indictment pending against him; that he is not able to advise the counsel as to the conduct or preparation of the trial of said indictment and that said ALBERT JENSEN was in a state of idiocy, imbecility, lunacy or insanity at the time of the commission of the crime alleged.

Dated, New York, 25 July, 1919.

Chairman.

Member.

Member.

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I hereby approve the report of the Commissioners' finding that the defendant, ALBERT JENSEN, is in such a state of idiocy, imbecility, lunacy or insanity so as to be incapable of understanding the proceeding or making his defense on the trial of the indictment now pending against him; that he is not able to advise with counsel as to the conduct or preparation of the trial of said indictment, and of making a proper defense thereto; and that the said ALBERT JENSEN was in such a state of idiocy, imbecility, lunacy or insanity at the time of the commission of the crime for which he has been indicted.

Dated, New York, July , 1919.

JUDGE OF THE COURT OF GENERAL SESSIONS.

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3155

New York City, July 29th, 1919.

THE CITY OF NEW YORK,

To Mr. Benjamin Ehrlich,
299 Broadway,
New York City.

1919, June 23rd, 25th, July 2nd, 7th, 9th, 14th, 16th, 18th and 25th:

To attending, taking and transcribing minutes
in the case of The People against Albert Jensen,
an alleged lunatic, indicted for Burglary in the
Second Degree, Grand Larceny in the First Degree
and Receiving in the First Degree:

582 folios at 20 cents a folio, one copy,-----	\$116.40
26 folios at 10 cents a folio, one copy,-----	2.60
608 folios at 5 cents a folio, two copies,-----	60.80
T o t a l,-----	\$179.80

I, William H. Wadhams, Judge of the Court of General Sessions
of the Peace, hereby certify that a Commission was by me duly ap-
pointed on the 13th day of June, 1919, to examine, inquire into,
determine and report to the Court as to the mental condition of
one Albert Jensen, an alleged lunatic, indicted for Burglary in the
second degree, Grand Larceny in the First Degree and Receiving in
First Degree; that Benjamin Ehrlich, above named, acted as steno-
grapher for said Commission; that the above stated charge is real-
able, and the Comptroller of the City of New York is ordered to
pay the same as a County charge.

JUDGE OF THE COURT OF GENERAL SESSIONS,
County of New York.

CASE # 2653