

**START**

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**CASE**

**CASE #2846**

0888

COURT OF GENERAL SESSIONS OF THE PEACE

IN AND FOR THE COUNTY OF NEW YORK

PART THREE.

-----x  
THE PEOPLE OF THE STATE OF NEW YORK

: B e f o r e:

-against-

: HON. JAMES T. MALONE, J.,

ROY SULLIVAN,  
indicted with Lawrence A. Kilroy  
and Ella Sullivan.

: and a Jury.

: 3368  
-----x

New York, Thursday, June 24, 1920.

(Stenographer's Minutes.)

Amos G. Russell  
Official Stenographer.

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June 24, 1920.

I n d e x

	Direct	Cross	Redirect	Recro.
John J. Flannelly	1	5		
Anna Cusick	7	22		
Abraham Kaufman	31	35		
James J. Donlin	36	39		
Lawrence Kilroy	46	54	73	

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merely to prove the apprehension of Kilroy.

Q You received a communication at the police house --  
Police Station? A Yes sir.

Q And in response to that communication you proceeded to  
22nd street? A Yes sir.

Q And did you see the man run into the school hall there?  
A No, I did not see him run in.

Q You were informed by someone? A I was informed that  
he run into a hallway of a house on Second avenue. I was also  
informed that he went over the rear fence.

Q And you went in there? A I went in the school  
house through the front entrance.

Q In company with any other officer? A I went in alone  
at first. I was subsequently joined by another officer and  
by several uniformed men.

Q And did you see the man Kilroy in the school? A In  
the lower hallway, on the first floor.

Q And how was he dressed? A No hat or coat on.

Q And you placed him under arrest? A I observed him  
leaving a room to the right of the hall, and I then went in  
that room, and under a bench I found a coat which Kilroy  
claimed was his coat. In this coat was a loaded revolver,  
also a check and some papers which were identified by the  
complainant as property that was taken from him.

Q And did you bring Kilroy to the station house? A I did.

Q In East 22nd street? A Yes sir.

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Q Did you have a conversation with him? A No, I did<sup>4</sup>  
not have a conversation with him.

Q Were you present in the room when he was questioned?  
for  
A I was in/a short while only.

MR. SHERIDAN: I offer this revolver in evidence.

MR. SULLIVAN: No objection.

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

MR. SHERIDAN: I offer these papers in evidence.

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

Q Lieutenant, after your conversation with Kilroy, did  
you proceed to No. 8 Bethune street? A No, I did not.  
Detectives Donlin and O'Neil went there.

Q But you didn't go there? A No.

Q You had a conversation with Kilroy? A No, my conver-  
sation with Kilroy was in the school house.

Q But you had a conversation with him? A Yes sir.

Q Were you present in the station house when the defend-  
ant on trial, Roy Sullivan, and his wife were brought to the  
station house? A I was.

Q Did you hear any conversation there? A I did.

Q What time of the day was Sullivan brought in? A About-

Q I beg your pardon. What time was it when you arrested  
Kilroy? A It was about 11.30 or 11.20, around that time.

Q And he was brought to the 22nd street station house?

A Yes sir.

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Q What time was it when you saw Sullivan and his wife?

A Perhaps about two o'clock.

Q And were you in the station house when they were brought in? A I was.

Q What time were they brought in? A Around two o'clock; I won't be positive of the exact time.

Q And did you participate in the questioning of the defendant Sullivan? A I didn't ask any questions.

Q Who did the questioning? A Detectives Donlin and O'Neil.

Q And O'Neil? A Yes sir.

Q And that is all you know about this case? A Yes sir.

Q You didn't do any of the questioning? A No, only what I heard Kilroy accuse this man --

MR. SULLIVAN: No, I object to a general statement of that kind, "I heard a man accused of it."

BY THE COURT:

Q You didn't do any questioning? A No sir.

MR. SHERIDAN: That is all.

CROSS EXAMINATION BY MR. SULLIVAN:

Q Did you appear in the Magistrates Court the following morning, when the defendant and his wife were arraigned in court? A Yes sir.

Q You say, as near as you can recollect, it was in the neighborhood of two o'clock when the defendant was brought to the station house? A Around two o'clock.

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Q Are you sure it was not one o'clock? A No, I think it was a little later.

Q A little later than one o'clock? A Yes sir.

Q It was between one and two o'clock? A About that, yes.

Q And what station house were the defendants brought to?

A To the East 22nd street, 21st Precinct.

Q And what Magistrates Court would you naturally take the defendants to in that neighborhood? A Fourth District Court, 57th street.

Q 57th street and Lexington avenue? A Yes sir, between Third and Lexington.

Q When was the defendant arraigned in court? A Sunday morning.

Q And this arrest was made on Saturday? A Saturday, yes.

Q There was no court on Saturday morning where you could arraign them? A Not on Saturday afternoon.

Q The charge made against the defendant and his wife was a felony, wasn't it? A Yes sir.

Q And you know that we have what is known as a Night Court? A Yes sir.

Q At 57th street, which opens at night about half past eight or nine o'clock? A Yes sir.

Q You didn't arraign them at the night court? A No sir, we don't arraign prisoners for felony in the Night Court.

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Q You did not arraign them there, did you? A No sir.

Q Not until the following morning? A No sir.

Q Were you present at the time Sullivan, the defendant, was arrested, at 8 Bethune street? A No, I was not.

Q You say the arrest was made by O'Neil and who else?

A Donlin.

Q Donlin? A Yes sir.

Q But you were at the station house when they returned?

A Yes sir.

Q Do you know whether or not Sullivan was told the nature or at of the charge against him at the time he was arrested, /the time he was brought into the station house? A That I couldn't say.

Q Was Kilroy in the station house at the time Sullivan was brought there? A Yes sir.

Q Was the defendant Sullivan and his wife, Ella Sullivan, brought in together? A Yes sir.

MR. SULLIVAN: That is all.

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A N N A C U S I C K, called as a witness on behalf of the

People, being first duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. SHERIDAN:

Q Where do you live? A 3088 Washington street, Roxbury, Massachusetts.

Q How old are you, Miss Cusick? A 24.

Q And did you know the defendant, Lawrence A. Kilroy?

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A Yes sir.

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Q Before the 22nd day of May, 1920? A Yes sir.

Q How long had you known him before that day? A About eight months.

Q About eight months? A Yes sir.

Q You come from Boston? A Yes sir.

Q And did you meet him in Boston? A Yes sir.

Q Did you reside with your family in Boston? A Yes sir.

Q How long did you live in Boston? A All my life.

Q All your life? A Yes sir.

Q About a few weeks prior to May 22nd, however, you moved from Boston, did you not? A Yes sir.

Q And you went to Jersey? A Yes sir.

Q What part of Jersey did you go to? A Greenville.

Q And Kilroy was in Jersey, in Greenville? A Yes sir.

Q Did you go there for the purpose of joining him?

A To get married.

Q To what? A To be married.

Q And did you stop at the same house with Kilroy, in Greenville? A Yes sir.

Q And you had relations with him as man and wife there?

A No sir.

Q But you had prior to -- before May 22nd, you had had relations with Kilroy, had you not? A Yes sir.

Q You spent two weeks in Greenville, New Jersey?

A Yes sir.

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Q And then about two days -- when did you come to New York? A On May 20th.

Q That is, two days before the day on which you and the others were arrested? A Yes sir.

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

Q And you arrived in the morning, or afternoon? A In the afternoon.

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

Q Were you accompanied by Kilroy? A I come over from Jersey City with Kilroy and Sullivan.

Q Had you known the defendant, Sullivan? A About a week.

Q Did you meet him in Greenville? A Yes sir.

Q Were you introduced to him by Kilroy? A Yes sir.

Q You came over from Greenville to where? A 8 Bethune street.

Q To 8 Bethune street, in this county? A Yes sir.

Q In New York City? A Yes sir.

Q And you went to Mr. Sullivan's home, did you not?

A Yes sir.

Q You arrived there about one o'clock in the afternoon on a Thursday? A Yes sir.

Q Did you stay there all afternoon? A Yes sir.

Q Did you stay there that night? A Yes sir.

Q Did you go out with the Sullivans during the night?

A Yes sir, we went to a show.

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Q What kind of a show did you go to? A Moving pictures.

Q And you, Kilroy, Mr. Sullivan and Ella Sullivan went to a moving picture show that night? A Yes sir.

Q After the show, did you return to 8 Bethune street?  
A Yes sir.

Q And you and Kilroy shared one bed room? A Yes sir.

Q The following morning, did you stay there? A Yes sir.

Q Did Kilroy stay there? A Yes sir.

Q Did you leave the house at all? A About half past two that afternoon he went out.

Q Half past what? A Two.

Q Did he go out alone? A No, with Roy Sullivan.

Q He went out with the defendant, Roy Sullivan? A Yes sir.

Q What time did he return? A About five o'clock.

Q What time did he return? A About five o'clock.

Q Did you have any conversation with him with reference to this case at that time? A No sir.

Q So that on Thursday afternoon and Thursday night there was no conversation had with reference to this case? A No sir.

Q Friday morning there was no conversation had? A No sir.

Q Friday afternoon there was no conversation had?

A No.

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Q Up until five o'clock? A No.

Q Did you have dinner at Sullivan's house? A Yes sir.

Q And after you had your meal finished at Sullivan's house, did you go out, or stay in? A We went to a show.

Q You went to another moving picture show? A Yes sir.

Q You and Kilroy? A Yes sir.

Q And the defendant Roy Sullivan and Ella Sullivan?

A Yes sir.

Q Did you return home to 8 Bethune street? A Yes sir.

Q Was there any conversation at that time had with reference to this case? A They spoke about getting up early in the morning.

Q When? A Friday night.

BY MR. SULLIVAN:

Q What was the answer? A They said "Be sure and be up about eight o'clock".

BY THE COURT:

Q Who was in the conversation? A Roy Sullivan and Kilroy.

BY MR. SHERIDAN:

Q And who else? A Mrs. Sullivan and I were sitting there.

Q In the same room? A Yes sir.

Q And you heard a conversation with reference to getting up early? A Yes sir.

Q Did they say anything else? A No sir.

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Q Did you then go to bed? A Yes sir.

Q Did you hear anything else said with reference to this case on Friday night? A No sir.

Q Now, the following morning was Saturday morning?

A Yes sir.

Q Did you get up early that morning? A Yes sir.

Q What time did you get up? A About eight o'clock.

Q Did you see the defendants, Sullivan or Kilroy, or Mrs. Sullivan up at that time? A Yes sir.

Q Did you hear any conversation with reference to this case at that time? A They talked then about going out at 9.30.

Q Yes.

MR. SULLIVAN: Who talked?

THE WITNESS: Kilroy and Sullivan.

MR. SULLIVAN: I object, if your Honor please, to a general statement as to people talking.

THE COURT: Yes, state what was said by each one of these persons.

Q You say you got up at eight o'clock on Saturday morning? A Yes sir.

Q And shortly thereafter you heard some conversation with reference to this case; "Yes", "No". A Yes sir.

Q Now, I want you to tell the Court and jury what you heard, and what you heard each man say, if anything, in connection with this case. A About eight o'clock we got up and

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had breakfast, 8.30, then Kilroy started dressing to go out,  
so did Mr. Sullivan. In the meantime, while Kilroy was getting  
ready, Sullivan produced a revolver. This revolver was to be  
carried by Kilroy, that was to hold up this man.

BY THE COURT:

Q What was said? A He said --

Q Who said ? A Sullivan said that Kilroy should take  
the revolver, and Sullivan told Kilroy just where to go to  
meet this man that he was to hold up.

BY MR. SHERIDAN:

Q I want you to bear in mind one thing. You cannot state  
your conclusions of what these people said. We are anxious to  
know the exact language, as far as you can recall, of what Mr.  
Sullivan said, <sup>and</sup> of what Kilroy said, and will you kindly speak  
a little louder? You were just stating that Sullivan told  
Kilroy to go and get so and so, the man they knew about.

I want to know what language, if any, was used at the hour be-  
tween eight and nine by Sullivan and what replies, if any,  
that Kilroy made, and what the conversation was, in the very  
language of the persons speaking, not of your recollection.

A Sullivan said that this man paid off at 11.30 ; he said  
this man would carry a payroll of 15 to 18 hundred dollars.  
Kilroy said it was easy to get, and after he would get it  
there would be no come-back, that he could get away with it.

Q Did you hear them mention the name of the man that was  
to be held up? A No sir.

Q Did you hear anything else now? A They said the

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man that they would hold up would be a man that was running  
a dyeing house. 14

Q Running a dyeing house? A Yes sir.

Q Did they say where the man kept his place of business?  
A No sir.

Q Did you hear Sullivan furnish any other details for  
this man Kilroy? A Sullivan said he would go with him.

Q And is there anything else that happened between the  
hours of eight and nine? A Between that hour there was a  
strap sewed on Kilroy's belt, to carry the revolver.

Q And what kind of a strap was it? A A piece of tape  
about two inches long.

Q And where was it sewed? A Inside his pants.

Q What side, on the side or in the rear? A On the  
side.

Q Do you remember which side, on the right or left?  
A No sir.

Q It was sewed on the inside of the trousers? A Yes  
sir.

Q Did you see this gun, People's Exhibit No. 1, on the  
morning of May 22nd (Exhibiting gun, People's Exhibit No. 1,  
to the witness)? A Yes sir.

Q Where did you see that gun? A I saw Roy Sullivan  
lay that gun on a shelf.

Q Where was the shelf? A In the bedroom.

Q In the bedroom? A Yes sir.

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Q Was that in the bedroom where you and Kilroy had slept that night? A Yes sir.

Q And Mr. Sullivan and Mrs. Sullivan slept in an adjoining bedroom? A No, they slept in the same bedroom.

Q The same bedroom? A Yes sir.

Q How many beds were in that room? A Two beds.

Q And did he take it out of his pocket, or did he take it from his coat, or did he take it out of the trunk, or where did he first get that gun from? A He came in with the gun from the kitchen.

Q From the kitchen? A Yes sir.

Q And was that after eight o'clock? A Yes sir.

Q And he placed it on a shelf? A Yes sir.

Q And what did you see after that with reference to this gun? A Then they went out.

Q Did you see anybody take it? A No sir.

Q Did you leave that room before Kilroy, or after Kilroy? A Before Kilroy.

Q When you had arranged your dress you went out to have breakfast? A Yes sir.

Q And you had breakfast earlier than Kilroy? A No, at the same time.

Q And when you left the bedroom the gun was on the shelf? A On the shelf.

Q Did you see the gun after that? A No sir.

Q When was this tape sewed in the trousers of Kilroy?

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A On Saturday morning.

Q On Saturday morning, at what time? A About 8.30.

Q About 8.30? A Yes sir.

Q Was there any conversation had by the defendant, Roy Sullivan, or Ella Sullivan, Kilroy, or yourself, after the production of that revolver? A No sir.

Q Did he say anything? A Well, he put the revolver, Kilroy did, in his back pocket, and he wore no vest that day, and the revolver stuck out, so he said, he couldn't go in the street with the revolver in the back pocket, and he told him to take it out.

BY MR. SULLIVAN:

Q Repeat that. A He took the revolver and placed it in his back pocket.

Q Who did? A Kilroy. He wore no vest that day, and the revolver stuck out the back, where the slit was in the back of his coat, you could see the revolver through there, Then Sullivan said that you could see the revolver, and he took the revolver out and laid it back again on the shelf, and a little while later they took a strap and said that if he sewed the strap in his pants the revolver wouldn't be noticed.

BY MR. SHERIDAN:

Q And did you see the strap being sewed? A I saw the strap.

Q Did you see them sew it into the trousers? A No sir.

Q Did you remain in the house? A No sir, I was doing

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the dishes.

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Q You were doing the dishes in some other room? A In the kitchen.

MR. SULLIVAN: I ask that that be stricken out again, that they sewed a strap into his trousers. She said she didn't see it.

BY THE COURT:

Q Did you see this? A I saw the strap, yes sir.

BY MR. SHERIDAN:

Q Before, or after? A I saw the strap on the bureau, and just before they went out I saw the strap in his pants.

MR. SULLIVAN: She said she was in the kitchen and did not see it put on the pants.

BY THE COURT:

Q Did you go in the other room? A Yes sir, I was going back and forth.

Q You were going from that room to the kitchen? A Yes sir.

Q Washing the dishes? A Yes sir.

Q And you saw these things you have told the jury, did you? A Yes sir.

BY MR. SULLIVAN:

Q You didn't see anybody sew it on? A No sir.

THE COURT: Then I will strike it out.

MR. SHERIDAN: Yes, that is consented to.

BY MR. SHERIDAN:

Q Until what time did Sullivan and Kilroy remain in the

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house, that morning? A They left the house about 9.30.

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Q About 9.30? A Yes sir.

Q And you and Mrs. Sullivan remained? A Yes sir.

Q Did they say anything with reference to the amount of money? A About \$1500.

Q Did they say what they were going to do with it when they got it? A (No answer)

BY THE COURT:

Q Which one said that? A Roy Sullivan said the pay roll would consist of about \$1500.

BY MR. SHERIDAN:

Q And what did Kilroy say? A He said it would be a good haul to get.

Q Did they discuss at that time what the final disposition of the money would be, or what they were going to do with the money? A No sir.

Q And they left the house at 9.30? A Yes sir.

Q Did you see Sullivan, the defendant, or Kilroy, on that morning thereafter? A Sullivan came back to the house about twelve o'clock.

Q And was he alone? A Yes sir.

Q Did he come up to the apartment where you and Mrs. Sullivan were? A Yes sir.

Q Did he have a conversation with you? A I asked where Kilroy was, and he said he would come back later.

Q That he would be back later? A Yes sir.

Q And then what happened? A Sullivan went out.

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Q Did he have lunch? A No sir.

Q What time did he come up? A While he was out the detectives come in.

Q What time did he come up to the house? About twelve?  
A Twelve o'clock.

Q Did he remain for lunch? A No sir.

Q He went outside again? A Yes sir.

Q Did he say where he was going? A Right out to the corner.

Q Right out to the corner? A As far as the corner and back again.

Q He didn't say why he was going out? A No sir.

Q Did you have lunch ready at that time? A No sir.

Q Shortly after he left, the detectives called at your apartment? A Yes sir.

Q And you and Mrs. Sullivan were taken into custody at that time? A Well, the detectives remained there until Sullivan came back.

Q Did Sullivan return? A Yes sir.

Q What time? A About ten minutes later.

Q And he was taken? A Yes sir.

Q Together with you and Mrs. Sullivan in a patrol wagon?  
A Yes sir.

Q From 8 Bethune street to East 22nd street? A Yes sir.

Q And were you questioned by the police officials at the

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police station? A Yes sir.

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Q Were you questioned in the presence of the defendant,  
Sullivan? A Yes sir.

Q Did you hear the defendant Sullivan questioned?  
A No sir.

Q By the police officers? A No sir.

Q Did you hear him make any answers? A No sir.

Q Were you in the room when they were questioning Sulli-  
van? A No sir.

Q Did you see Sullivan at the police station? A Yes sir.

Q Where was he when you saw him? A He was in a room.

Q With whom? A With the detectives.

Q How many detectives? A Donlin was there.

Q And how many? A Donlin.

Q Donlin? A And O'Neil was there.

Q O'Neil? A That is all.

Q And what time was it when you were brought to the po-  
lice station? A A little after one o'clock.

Q A little after one? A Yes sir.

Q And you saw Sullivan in a room with these two detec-  
tives? A Yes sir.

Q In the 21st Precinct station house? A Yes sir.

Q Did they take you in the room to see Sullivan? A They  
took me and questioned me before Sullivan.

Q Did you hear them ask Sullivan any questions? A No  
sir.

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Q What was Sullivan doing? A He was sitting on the side of a table.

Q On the side of a table? A Yes sir.

Q Did you hear Sullivan at any time while he was in the 21st Precinct make any answers? A No sir.

Q Did you hear him questioned? A No sir.

Q What time were you taken to the Magistrates Court?

A Which court is that?

Q Were you taken to a court that day, or the next day?

A Sunday morning.

Q Sunday morning? A Yes sir.

Q 57th street? A Yes sir.

Q And you told your story then? A Yes sir.

Q And you had previously told your story on -- A May 22nd.

Q On May 22nd, to the police officials? A Yes sir.

Q And you told them on May 22nd the same story you have told today in this court room? A Yes sir.

Q Did you have any other conversation with Sullivan, the defendant? A No sir.

Q Did you from the time that he was arrested up until the time he was arraigned in the Magistrates Court hear the defendant, Sullivan, make any reply to any questions that were put to him by any police officials? A No sir.

Q Did they ask him questions in your presence? A No sir, not one question.

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Q Did you know Sullivan, this man, the defendant --  
you say you knew him for about two weeks? A One week.

Q Before May 22nd? A Yes sir.

Q And you were introduced to him through Kilroy? A Yes  
sir.

MR. SHERIDAN: You may examine.

CROSS EXAMINATION BY MR. SULLIVAN:

Q Now, as a matter of fact, Miss Cusick, when you were  
taken to the Magistrates Court on that Sunday morning and went  
to the witness stand, didn't you refuse to testify? A Well,  
I didn't know what they wanted.

Q Did you refuse to testify? A Yes sir.

Q Then you didn't know the story there that you say you  
are telling <sup>today</sup> here, did you, when you refused to testify and give  
any information? A Sunday morning the case was put over  
until Monday morning.

Q You were called to the witness stand, and you refused  
to answer questions and you refused to testify in the Police  
Court, is that right? A Yes sir.

Q Then when the District Attorney asked you, did you tell  
the same story there that you have told here today, when you  
said "Yes", you didn't mean that, did you? A Well, I --

Q One moment. You didn't mean that, did you? You didn't  
tell that story in the Magistrates Court, did you? A No,  
not in the court.

Q Then, you either didn't understand the District At-  
torney, or you didn't understand the statement that you were

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L making, and, as a matter of fact, you refused to give testimony in the Magistrates Court; isn't that right? A I didn't understand them. 23

Q You refused to testify; isn't that it? A I didn't refuse.

Q Well, you didn't testify, did you? A No.

Q Have you been talking with anybody about this case since you refused to testify in the Magistrates Court? A No sir.

Q You have been locked up in the House of Detention, or in one of the -- A Harlem Prison and the Florence Crittenden Home.

Q You were under arrest? Now, you were arrested as well as Kilroy and the defendant Sullivan and his wife, also charged with this robbery; isn't that right? A Yes sir.

Q And you were taken in as one of the four, and the charge made against you in the Magistrates Court at first was a charge of robbery in the first degree, the same as the charge against Kilroy and against Sullivan and his wife; isn't that right? A Yes sir.

Q And you were locked up from Saturday afternoon until Sunday morning upon that charge of robbery, in the police station, isn't that correct? A Yes sir.

Q Then, when you got to the Magistrates Court, were you not advised there by the police officers or somebody else and told that if you would consent to testify against Sullivan and Kilroy and against his wife, that you could become a witness

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L and go free, or words to that effect? A No sir; I told the truth. 24

Q I am asking you if that statement was made to you by anybody. It was not, was it? A No sir.

Q And then, as a matter of fact, they did not make a charge of robbery against you, did they? A No sir.

Q Now, were you present -- you say the four of you were present on Saturday morning when the conversation took place at 8 Bethune street between Sullivan, his wife, Kilroy and yourself; is that right? A Yes sir.

Q Were you all seated at a table, or how were you seated, when the conversation was going on? A Kilroy was dressing, and so was Sullivan. I was sitting on the side of the bed, and so was Mrs. Sullivan.

Q What is that? A Kilroy and Sullivan were dressing.

Q And where were you sitting? A On the side of the bed.

Q And where was Ella Sullivan? A She was sitting on the side of the bed.

Q Both of you were sitting on the side of the bed? A Yes sir.

Q There were two beds in that room? A Yes sir.

Q Did you join -- the conversation was general? A I had nothing whatsoever to say.

Q What? A I had nothing to say about it.

Q Didn't you join in the conversation at all? A I did not.

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Q Didn't you know Kilroy was going out that day if possible to hold somebody up and rob him? A I asked Kilroy not to go.

Q You knew that he was going? Please answer my question. Isn't that right? A Yes sir.

Q That he intended to go and hold somebody up whose name was not mentioned; isn't that right? A Yes sir.

Q And you didn't want him to go? A No.

Q And do you mean to tell me that you didn't take part in that conversation? A I did not take part in that conversation.

Q How long have you been living with Kilroy? A Living with Kilroy? I only stayed with him at 8 Bethune street.

Q What is that? A 8 Bethune street, two days over there.

Q Two nights? A Yes sir.

Q How long were you sleeping with him? A Two nights.

Q Did you sleep with him in New Jersey? A No sir.

Q How long were you in Jersey with Kilroy? A I was living in the same house where Kilroy was in Jersey City.

Q That is his brother's house, isn't it? A Something to him, a relation to him.

Q A relation of his out in Jersey, a man that keeps a saloon? A Yes sir.

Q And you and Kilroy were living there together?

A Kilroy had a room upstairs and I had a room downstairs.

Q How long did you and Kilroy have a room there? A Kil-

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roy was there about four weeks and I was there about two weeks.

Q And you came on from Boston? A Yes sir.

Q And do you mean to say you were not living with Kilroy during any of those two weeks you were in Jersey? A I was not living with Kilroy.

Q Did you have anything to do with him? A No.

Q Sure? A Positively.

Q Were you and Kilroy living together in Boston? A No sir.

Q How long did you know Kilroy in Boston? A About eight months.

Q Were you keeping company with him? A Yes sir.

Q What were you working at in Boston? A I was working in a shoe business.

Q A shoe business? A Yes sir, in a shoe factory.

Q And did you have any meratricious relations with Kilroy in Boston? A No sir.

Q Not until you got to Bethune street? A Oh, I went out with him in Boston.

Q I mean any illicit relations, any connection with him? A Yes sir.

Q You did have in Boston? A Yes sir.

Q How long were those illicit relations kept up, how many months? A About a month or two.

Q How long? A About a month or two.

Q Was it six months, or five months or two months, or

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eight months? A About one month.

Q About? A Yes sir.

Q Or about two months, which? A About one month.

Q That is, you had illicit relations with him in Boston for a month? A Yes sir.

Q Then you came on to Jersey and lived in the same house with him, and you tell this jury that you had no relations of that kind during the two weeks you were in the same house with him in Jersey; is that right? A Yes sir, that is right.

Q But that you then continued the same relations with him at No. 8 Bethune street, is that correct? A Yes sir.

Q Had you other friends before Kilroy? A No sir.

Q You say you are 24 years of age? A Yes sir.

Q Were you not told in the Magistrates Court, or since you have been locked up, that if you would give testimony in this case that your freedom was assured and that you would be let go? A I was told no such a thing.

Q Were you told in the Magistrates Court that you ran a chance -- that they would hold you for the Grand Jury if you didn't testify, and that you ran a chance of going away for a number of years if you would not testify against the defendants? A No sir, I wasn't told nothing like that.

Q Now, Kilroy was an old friend of yours, wasn't he?  
A Yes sir.

Q Do you know that Kilroy pleaded guilty to robbery in the third degree in this court? You know of that, don't

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you? A I heard it.

Q You heard it, yes, and isn't it true that you intended, if Kilroy had not pleaded guilty and had gone to trial, to go on the witness stand here and refuse to testify against him, as you had refused to testify in the Magistrates Court, in order to help him? A No sir.

Q You didn't intend to go against Kilroy as a witness if he had gone to trial? A I would have said the same thing.

Q You would have gone against him? A Yes sir, I would have said the same thing.

Q Have you turned against Kilroy? Do you dislike him now? A I haven't turned against Kilroy.

Q You haven't what? A I haven't turned against him.

Q And isn't it true that after you had found out that Kilroy had entered a plea of guilty and that you could not testify against him that you made up your mind to testify against Sullivan here? A It is not true.

Q Then why didn't you give that testimony against Kilroy and Sullivan, who was jointly arrested, in the Magistrates Court? Why did you hesitate then, when Kilroy had not pleaded guilty? A I didn't understand the District Attorney.

Q Why? What was the matter with the District Attorney? He had ordinary intelligence, didn't he? A Well, the Judge says "You may testify, or may not", and I just said "All right", and I said "No".

Q That is, the Judge had informed you of your rights,

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in consideration of the charge against you of robbery, a felony charge, the judge informed you of your rights, told you that you might testify, or not, that whatever you said may be used against you; he informed you of your legal rights; but that was not the reason why you refused to testify' was it? A I didn't understand him.

Q Do you mean to say you didn't understand the District Attorney? A Yes sir.

Q Now, you understand what I am saying, don't you?  
A Perfectly.

Q You understand what Mr. Sheridan said to you? A Yes sir.

Q You understand the question his Honor asked you?  
A Yes sir.

Q And do you mean to say you didn't understand the District Attorney in 57th street? A I was so excited I didn't know what to do as I was standing there.

Q Did you have any talk with Kilroy about sharing the proceeds of this alleged holdup, in case that he was successful, to bring back the money to you? A No sir.

Q Did he tell you he would buy you dresses and hats and shoes and things like that? A No sir.

Q Had he ever promised you hats and shoes and dresses?  
A No sir.

Q And didn't he tell you he had a chance now to make some money and that he would come back and marry you? A No

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sir.

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Q You knew Kilroy had no money, didn't you? A Kilroy was working.

Q What? A Kilroy was working.

Q He was a partner of his relative in Jersey? A Yes sir.

Q And he intended to marry you? A Yes sir.

Q That is, so you thought? A Yes sir.

MR. SULLIVAN: That is all for the present.

MR. SHERIDAN: That is all.

MR. SULLIVAN: Now, I have a motion to make, if your Honor please, with regard to the testimony. This witness testified that she overheard a conversation wherein she says that Sullivan, the defendant, told Kilroy, a co-defendant in this case, told him that a man unknown to this witness, whose name was not mentioned, that some body would be held up, and that he would have a payroll of 15 or 18 hundred dollars. That might apply to any man in the universe. Now, as it does not apply to any individual in particular I ask that the testimony of this witness be stricken out with regard to the identification of anybody at all, and especially as against this defendant.

THE COURT: Motion denied.

MR. SULLIVAN: I take an exception.

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A B R A H A M     K A U F M A N, called as a witness on behalf  
of the People, being first duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. SHERIDAN:

Q Where do you live?    A 517 West 147th street.

Q Mr. Kaufman, on May 22nd, 1920, you conducted a place  
of business in this county?    A Yes sir.

Q That was at No. 214 East 22nd street?    A Yes sir.

Q What business were you engaged in?    A Dyeing business.

Q May 22nd was a Saturday, was it not?    A Yes sir.

Q And were you held up in that building?    A Yes sir.

Q About what time of day was it?    A About eleven or  
11.15.

Q It was about 11 or 11.15 ?    A Yes sir.

Q And were you in the building?    A Yes, I was on the  
stairs.

Q Between the 1st and 2nd or 2nd and 3rd floors?

A Between the 2nd and 3rd floors.

Q And when you arrived between the second and third  
floors what happened?    A A man held me up with a gun and  
said "Hands up, or I will blow your brains out."

Q Yes.    A I put my hands up. He started to search me  
and take everything out he found; then he says "Where is the  
payroll?"    I says "I haven't got any payroll". He says "Ain't  
your name Abe Kaufman?"    I said "No."    They stood me up against  
the wall, took everything out, and hit me with something, and

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then ran away.

Q Where did he hit you? A on the side, here; I don't know what he hit me with.

Q I show you this paper dated May 18, 1920, and ask you was that paper in your pocket (handing paper, part of People's Exhibit No. 2, to witness). A Yes sir.

Q And will you kindly inspect these other papers (handing witness balance of People's Exhibit No. 2).

MR. SULLIVAN: No objection.

Q A man took these papers out of your pocket? A Yes sir.

Q And how much money? A Seven dollars in cash.

Q Any bills? A Bills, yes sir.

Q Did you know that man Kilroy before that day? A No sir.

Q You now know his name to be Kilroy? A Yes sir.

Q And is it customary for you to get your payroll on a Saturday morning? A I usually go, most of the time I go.

Q And what does your payroll consist of in money? A Well, a thousand, 1500, 1800, 3000 dollars, it is not the same.

Q How many help do you employ? A About 40.

Q Did this man, the defendant, Sullivan, work for you for a period of about six or eight weeks? A Yes sir.

Q When did he stop working for you? A Well, I can't say that; about three or four or five months ago; I can't say that exactly.

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Q How long before May 22nd was it that he stopped working for you? A It must have been three, four or five months, four months; <sup>I</sup> can't tell that exactly offhand.

Q It might have been three, four or five months before May 22nd? A Yes sir.

Q When he stopped working for you? A Yes sir.

Q When he was working for you, how many weeks did he work for you?

MR. SULLIVAN: Well, now, if your Honor please, I object to that. That is going away ahead of the time, it is too remote, and, furthermore, he has brought out the fact that he worked for him and worked for him five months ago.

MR. SHERIDAN: I just only want to get the skeleton.

MR. SULLIVAN: We concede we worked for him.

Q How many weeks did he work for you? A I can't say exactly.

Q About six or seven? A I presume so.

Q And he had an accident there with reference to his thumb? A Yes sir.

Q And he was receiving compensation? A Yes sir, he was getting paid by us.

Q And his wife worked for you also? A Yes sir.

BY THE COURT:

Q Was he at the time when this happened? A No sir, he

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was not working for us at that time.

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Q Was he getting compensation? A At that time, I don't know whether he was getting compensation yet.

BY MR. SHERIDAN:

Q He had an accident to part of his thumb? A Yes sir.

Q And it was grafted back? A I believe so.

Q And was there any bad blood, any difference, between you and the defendant, Sullivan? A Not that I knew of.

Q About that Accident? A Not at all. I think we treated him, as he said himself, very, very well.

Q Now, the defendant's wife is Mrs. Ella Sullivan?

A Yes sir.

Q Do you recognize that woman (indicating Mrs. Ella Sullivan)? A Yes sir.

Q That is Mrs. Ella Sullivan? A Yes sir.

Q That is the wife of the defendant? A Well, so they went.

Q And she also worked for you? A Yes sir.

Q During the period of time that her husband worked?

A Yes sir.

Q How long did Mrs. Sullivan work for you? A She must have worked a little longer. She started a little while before he started.

Q And did she work after he quit? A No, she quit before, I think, before he did.

Q And about how many weeks was she employed by your com-

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pany? A Well, probably the same amount, maybe two or three  
weeks longer, I don't know. 35

Q Eight or ten weeks? A Maybe that much.

Q And did you have any difficulty with her? A Well,  
we had a little bit, a little thing happened.

Q What happened? A We found a piece of silk that was  
taken --

MR. SULLIVAN: One moment, your Honor, I move to  
strike that out.

MR. SHERIDAN: I consent to it, and ask that the jury  
be instructed to disregard it.

Q Did you have any personal difference other than that?  
A None that I know of.

Q And these people hadn't worked for you for about four  
or five months before May 22nd? A Something like that.

Q When they had terminated their employment, there was  
no difference between you and Sullivan? A Not that I know  
of.

MR. SHERIDAN: That is all.

CROSS EXAMINATION BY MR. SULLIVAN:

Q You had no trouble with Mrs. Sullivan? A No trouble?

Q Yes. A With whom?

Q With Mrs. Sullivan? A Well, with the exception that  
we found that at one time a piece of silk was taken .

Q Did you ever try to kiss her? A What?

Q Did you ever try to kiss Mrs. Sullivan? A I?

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Q You? A No sir.

MR. SULLIVAN: That is all.

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J A M E S J . D O N L I N, police officer, shield No. 533,  
attached to the 21st Precinct, Third Detective Division,  
called as a witness on behalf of the People, being first  
duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. SHERIDAN:

Q Officer Donlin, how long have you been a member of the  
Police Department? A 14 years.

Q And what is your rank? A Acting detective sergeant.

Q And on May 22, 1920, did you assist in the arrest of  
Lawrence Kilroy? A I did.

Q Did you go into a school on Second avenue, or in 22nd  
street? A No, I remained outside the school.

Q Did you see Kilroy when he left that building? A I did.

Q And you accompanied him to 22nd street? A Yes sir.

Q You had a conversation with him in the station house?  
A Yes sir.

Q After you had the conversation with Kilroy, you pro-  
ceeded to a certain address, didn't you? A Yes sir.

Q What was that -- 8 Bethune street? A 8 Bethune  
street.

Q And you had a conversation there with Mrs. Sullivan  
and the young lady who was on the stand, Anna Cusick? A I did.

Q Did you call there alone, or were you in company with

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another officer? A I first called there alone.

Q And about what time was that? A It was about 12.20 P. M.

Q And then did you remain? A I did.

Q And were you joined by another officer? A I was.

Q What is his name? A Detective O'Neil.

Q A short while thereafter the defendant, Sullivan, came to the apartment, didn't he? A Yes sir.

Q And you brought them in a patrol wagon to the station house? A Yes sir.

Q And while you were in the station house did you question the defendant, Sullivan? A I did.

Q Concerning this crime? A Yes sir.

Q And who was present when you questioned him? A A man by the name of Kilroy, D'Neil, Captain McQueenie, of the Third Detective Division, and myself .

Q About what time was it when you questioned him?  
A About 1.45 P. M.

Q I want you to state what answers he made to you concerning this crime. A I asked the defendant Kilroy, in the presence of the defendant Sullivan --

Q No, officer, you cannot testify as to any statements you asked Kilroy. I am anxious to know what answers were made by this defendant, Sullivan. A He stated "All right"; he said "As long as Sullivan"--"as Kilroy told the truth, it was all up, but," he said, "I want to tell you, Larry, that I

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didn't frame you up"; he said, "I sent you over there, but I don't want you to think that I framed you up."

Q What else was said? A I asked him where he had been. He said "Well, I went into Picket's saloon", which is on the corner of Third avenue and 22nd street.

BY THE COURT:

Q Who are you talking about now? A Sullivan.

BY MR. SHERIDAN:

Q Yes . A He stated that he had a drink, and he came out. He stated that the day before he had been to Third avenue and 22nd street, that he had not visited Picket's saloon on that day, but he had went with the defendant Kilroy to Sherman's saloon, at first avenue and 23rd street.

Q First avenue? A And 23rd street.

Q First, or Third? A First. That he came back to Third avenue and 22nd street, and that he sent Larry up to the third floor of this building to see if Kaufman was there, and he said Kaufman was not there, and he came back with him on Saturday morning, and while Larry went away he went into Picket's and stood there.

BY MR. SULLIVAN:

Q What is that last? A While Larry went away he went into Picket's and stood there.

BY MR. SHERIDAN:

Q Did you have any further conversation? A That is all.

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MR. SHERIDAN: You may examine.

CROSS EXAMINATION BY MR. SULLIVAN:

Q Who did you say -- did you say your name was Donlin?

A Yes sir.

Q Did you say O'Neil was with you at the station house when you were talking with Kilroy, the defendant? A O'Neil was walking in and out. Captain McQueenie was there at all times.

Q Who conducted the examination of this defendant?

A I did.

Q Isn't it customary for the captain to conduct those examinations? A - Well, sometimes it is; sometimes we do it.

Q The captain was there, wasn't he? A Yes sir.

Q And the lieutenants were also -- was O'Neil a lieutenant? A No sir.

Q Why didn't the captain conduct the examination? A I am the officer in charge.

Q Always do it? A Always do it.

Q Sometimes? A Always do.

Q Did the captain listen to this conversation? A He did.

Q All of it? A All of it.

Q But O'Neil only heard a little of it? A O'Neil was walking in and out.

Q And you don't know whether O'Neil heard any of it, do you? A I know he heard some of it.

Q You got Kilroy -- Kilroy was taken to the station

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house before that time? A Yes sir.

Q How long was Kilroy in the station house before you brought Sullivan and his wife in? A Probably an hour.

Q And you had -- who was with Kilroy at the time? A Who was watching him?

Q Yes. A I believe Flannelly was watching him.

Q Did you bring him in? A No, I did not.

Q Who brought him in? A Lieutenant Flannelly.

Q And were you there when he was brought in? A I was walking down about ten feet behind him.

Q Were you in the station house with him during the hour before the defendant Sullivan was brought in? A Yes sir, as soon as he was brought in I was with him.

Q With Kilroy? A With Kilroy.

Q And did you stay with Kilroy for an hour? A No, only a couple of minutes.

Q And did you examine him at that time? A I did.

Q And you conducted the examination both of Kilroy and of Sullivan? A I did, yes sir.

Q And how long did it take you to conduct the examination of Kilroy before Sullivan got there? A I conducted the examination of Kilroy immediately; it took about 15 or 20 minutes.

Q You said a minute ago you only saw him for a couple of minutes, and then you conducted an examination for 15 or 20 minutes. Now, which is it? A I conducted an examination of Kilroy for about 15 or 20 minutes, and then I left him there

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and went away.

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Q And you got all you wanted out of Kilroy at that time;  
is that right? A Yes sir.

Q And then you went out and brought in Sullivan; is that  
right? A Yes sir.

Q Now, what was the first thing you said to Sullivan or  
to Kilroy when you brought Sullivan in where Kilroy was? A I  
asked Kilroy was this the man he mentioned, Sullivan. Kilroy  
says "Yes, that is the man".. I asked the defendant, Sullivan,  
did he know Kilroy. He says, "Yes, I know him".

Q Did you tell Sullivan then that he was charged with  
this robbery, or how long did you have him there when you told  
him? A I told Sullivan on the way over in the patrol wagon  
that he was charged with acting in concert with the others  
in this robbery.

Q Yes -- that is, after you got to his house in 8 Bethune  
street, you told him in the patrol wagon on the way over?

A I told him in the house first.

Q Did you tell his wife the same thing? A Yes sir.

Q And the Cusick girl? A Yes sir.

Q You told her she was charged with robbery, also?

A I told them all that they were charged with acting in con-  
cert with each other.

Q And you arrested the Cusick girl for robbery in the  
first degree? A Yes sir.

Q And she was locked up upon a robbery charge? A She

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was.

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Q Isn't it a fact that Sullivan, the defendant, told you, in the presence of Kilroy, that he had nothing to do with it, that he didn't know anything about it, that he was not there, and had not seen Kaufman in five months? A Yes

sir, the first time he told me he was not there, that he didn't know Kilroy, and had nothing at all to do with it. Then I asked him did he know this man. He says "Well, yes, I know him; that is Kilroy".

Q You told us a moment ago that when you brought him in he said "Yes, I know Kilroy", and now you say he denied knowing Kilroy. Now, which of those two statements is correct? A He denied at first that he knew anything about it, and he denied knowing Kilroy.

Q I thought you told us a moment ago that when you brought him into his presence he said he knew him? A I didn't say that. I said afterwards.

Q You said he said right immediately he knew him, and now you say he denied knowing him. Now, which statement is correct? A He denied knowing him at the start.

Q Then your other statement is not correct? A He denied having had anything to do with it at the start.

Q Then your other statement that when you brought Sullivan in and faced him with Kilroy and asked him if he knew him and he said "Yes," then that statement is not correct; is it? A No.

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Q Then why did you make it if it is not correct? A Because he was not being questioned at the start, when I first asked him did he know Kilroy, and he denied it.

Q You said you asked him -- A He was in the room before he was questioned. You asked me when I first questioned him in regard to Kilroy. When he was confronted with Kilroy he said "Yes, I know him", but before that time, before he had saw Kilroy sitting in the corner, he said "I don't know Kilroy, I don't know anything at all about it".

Q Wasn't what Sullivan said to you "I know Kilroy, but I had nothing to do with anything that he may be charged with"?

A At first he said --

Q One moment. Didn't he tell you that he was not there, and that as far as Kaufman was concerned he knew nothing about him, not having seen Kaufman during a period of four or five months, didn't he tell you that? A He told me that going over, not in the room.

Q You ascertained that to be a fact, that he had not seen Kaufman for four or five months? A Well, I don't know. I think he --

Q Didn't you hear Kaufman swear in the Magistrates Court on Sunday morning that he had not seen this man in four or five months, or his wife, either? A No, I did not.

Q Were you in the Magistrates Court? A Yes sir.

Q Did you hear Kaufman say on the stand here that he had not seen this man for a period of five months? A I heard

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him say it here, but not in the Magistrates Court.

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Q Were you in the Magistrates Court when the examination was conducted in the Magistrates Court? A Yes sir.

Q Well, what was it you say that Sullivan said after he said he knew Kilroy? Give us his exact language. What did you say to him, first? A I said to Sullivan "What have you got to say to that?" Sullivan says "What is the use of denying it now?" He said "The only thing here", he said, "Larry", "I don't want you to think that I framed you up".

Q Is that all he said? A I then said to him "Well, how did you come to do this job?" He says "What is the use of talking about it?"

Q Just tell us all he said. "What was the use of talking about it"? A "What is the use of talking about it."

Q In other words, the defendant refused to give you any information; is that right? A After that, yes.

Q And that made you sore, didn't it? A No, it didn't make me sore.

Q When you left him you were under the impression you could get nothing out of him by way of a concession, isn't that right? A I wasn't looking for a concession.

Q Before you asked the defendant any questions, did you inform him of his rights? A I did not.

Q You did not? A No.

Q You didn't think a little formality of that kind was at all necessary, did you? A I did not.

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MR. SULLIVAN: No, I guess that is all.

MR. SHERIDAN: The other testimony would be of a cumulative character, the same as the officers, so I think the People will rest their case.

MR. SULLIVAN: I move for a direction, your Honor, inasmuch as the evidence is not sufficient to go before the jury. Of course, the officer's testimony, when he said the defendant said "What is the use of talking about it?", he evidently could not get any concession from him. As far as the girl is concerned, it was a conversation about somebody she didn't know, certainly it does not connect this defendant with putting up a job on any particular individual, especially the complainant in this case. Under the circumstances, I ask your Honor to direct a verdict of acquittal.

THE COURT: Motion denied.

MR. SULLIVAN: I take an exception.

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1      THE DEFENDANT'S CASE

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LAWRENCE KILROY, called as a witness on behalf of the defendant, being first duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. SULLIVAN:

Q Where do you live? A 8 Bethune Street.

Q How old are you? A Thirty-two.

Q What is your occupation? You have been a soldier, haven't you? A Yes, sir.

Q How many years were you in the army? A Practically nine years.

Q Nine years in the army? A Yes, sir.

Q And you were on the other side, were you? A Yes, sir.

Q For how many months? A I was over there about four months and was confined.

Q What? A About four months before I was confined.

Q Four months in France? A Yes, sir.

Q How long were you on the other side altogether?

A Practically twenty-six months.

Q About six months in France? A About twenty-six months.

Q And you were in the army at that time on the other side? A Yes, sir.

Q Do you remember the 22d day - Oh, when you came back, prior to the 22d day of May, you were working for a relative of yours in Jersey, were you, as bartender? A Yes, sir.

Q How long did you work in Jersey, about? A I worked

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there about four weeks.

Q And was there a young lady named Miss Cusick living there at the same time you were at your relative's house?

A Yes, sir.

Q You knew this young lady in Boston, did you? A Yes.

Q You were engaged to be married to her? A Yes, sir.

Q And you did take her down and take out a license to have a marriage ceremony performed; is that right? A That is, yes, sir.

Q And after losing your position or quitting your position in Jersey you came over to New York and were living at 8 Bethune Street? A Yes, sir.

Q Where Mr Sullivan and his wife, Mrs. Ella Sullivan, occupied two rooms? A Yes, sir.

Q How long were you and Miss Cusick living in 8 Bethune Street? A Two days.

Q You entered a plea of guilty here, I believe, did you not? A Yes, sir.

Q Acting on my advice and with his Honor's permission to robbery in the third degree? A I did, yes, sir.

Q As a matter of fact, you did hold up, did you not, one Abraham Kaufman, up in 22nd Street, in this city, and had in your possession a loaded revolver, and took from him certain papers out of his pocket? A Yes, sir.

Q And were you alone at the time you did that? A Yes.

Q And then you went into a schoolhouse and took off your

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coat, and the coat and revolver were found under a bench in the school; is that correct? A Yes, sir.

Q And you were then arrested and charged with this offense, isn't that correct? A Yes, sir.

Q Now, Kilroy, I wish to ask you - you say you were alone at the time of the commission of this robbery? A Absolutely.

Q Was the defendant Sullivan with you at the time you committed that robbery? A No, sir.

Q Do you know where Sullivan was at the time that you committed the robbery? A No, sir.

Q Did Sullivan go up there with you to assist you in the commission of that robbery? A No, sir.

Q Was Sullivan anywhere near you, as far as you know, at the time you committed that robbery? A No, sir.

Q This happened on a Saturday morning, did it not?  
A Saturday noon, 11:30.

Q What? A Saturday, noon time, the 22d of June, 11:30.

Q You were arrested in the neighborhood of one o'clock, or a little before one o'clock?

A Yes, sir.

Q Now, what time was it - do you remember what time you got up at 8 Bethune Street on that Saturday morning? A I got out of bed about eight o'clock.

Q And you were sleeping then with Miss Cusick, were you?  
A I was sleeping in the house.

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Q You were in the house, all of you, were you? A And Sullivan and his wife.

Q Do you remember what time the four of you had breakfast? A I can't recollect whether we had breakfast, or not.

Q Do you remember that there was a tape on the inside of your trousers? A Yes, sir.

Q You remember that circumstance? A Yes, sir.

Q And the police noticed that, did they, at the time they arrested you? A No, sir.

Q How did that tape - how was that sewed on your trousers? A I sewed it on with a piece of thread, ordinary thread.

Q You sewed it on yourself? A Yes, sir.

Q What day was that put on or where, in Jersey, or in New York, or where? A It was put on in Jersey - 8 Bethune Street.

Q What date? A The 22d of June, on a Saturday morning.

Q Did anybody sew that on for you? A I sewed it on myself.

Q You put it on yourself? A Yes, sir.

Q Did you tell anybody you intended to put it on there?  
A No, sir.

Q You did it yourself? A Yes, sir.

Q How long did you have that revolver that you used on that morning, how long did you own it? A I owned it about two hours prior to the robbery.

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Q Where did you get the revolver? A I bought it.

Q In the city of New York? A No, sir.

Q Where? A In Jersey.

Q Did you go over to Jersey after leaving Bethune Street that morning? A No, sir.

Q You say you bought it in Jersey? A Yes, sir.

Q You got up at 8 Bethune Street at eight o'clock in the morning, then you say you bought the revolver about two hours before the hold-up, in Jersey. Then you must have gone to Jersey? A I came in possession of the revolver two hours before this hold-up occurred.

Q Two hours before the holdup? A Yes, sir.

Q And the holdup was at 12:30? A Yes, sir.

Q You came in possession of the revolver, then, about half past ten in the morning, two hours before; is that right? A The robbery took place at 11:30 on June 22d. I got the revolver at eight-thirty.

Q Where did you get the revolver? A New York City.

Q Did you buy it? A No, sir.

Q You got it? A Not at that time I didn't buy it; I had already paid for it.

Q What? A I had already paid for it, in Jersey City.

Q And you went out and got it, didn't you? A Yes, sir.

Q Now, did you get that revolver from Sullivan that morning? A No, sir.

Q Did Sullivan ever see that revolver until you were

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arrested? A I don't know.

Q Did you ever see Sullivan with a revolver in your life? A No, sir.

Q How long have you known Sullivan? A About three weeks before I was arrested.

Q Did you ever have - did you have any conversation with Sullivan and his wife at 8 Bethune Street on the morning of May 22d, about half past eight or nine o'clock, about holding up Kaufman? A No, sir.

Q Did Miss Cusick ever beg of you not to go out and hold him up? A Yes, sir.

Q Did you tell her that you intended to do it? A I didn't tell her that I intend to do it, no, sir.

Q Did she know where you were going? A No, not on Saturday morning, because I didn't tell her.

Q Did she know you were going to hold up somebody? A No.

Q What conversation, if any, did you have ~~xx~~ with her at all on the morning of May 22d, about eight or nine o'clock, before you left the house? A Well, I can't recall now what conversation took place. However, it was not about a robbery of any kind.

Q Did you and Mrs. Sullivan, or the defendant, sit down there, were you sitting on a table, you and Sullivan, and Miss Cusick, and Mrs. Sullivan sitting on the side of the beds in that room, and did the three of you, leaving Miss Cusick out,

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you, Sullivan and his wife, discuss this robbery? A No, sir.

Q Did Sullivan ever tell you that the man always had a roll of from fifteen to eighteen hundred dollars with him on Saturday, to pay off the men? A I got that information from Sullivan, yes, sir.

Q From whom? A From Sullivan.

Q When? A By asking him leading questions.

Q When, that morning, or the day before? A Possibly two or three days before that.

Q Two or three days before that? A Yes, sir.

Q Did you ever at any time ever tell Sullivan that - after you had gotten the name of Kaufman from Sullivan, and after you had ascertained the fact that Kaufman was in the habit of carrying a payroll, did you ever have a conversation with Sullivan about holding up Kaufman? A No, sir.

Q Did you ever have such a conversation with the wife of Sullivan in the presence of Sullivan, about holding up Kaufman for the robbing of his payroll? A No, sir.

Q After ascertaining from Sullivan, by putting leading questions to him, or by pumping him, as it is commonly called, for whom he worked, that on Saturdays he usually had a payroll with him, did you at any time inform Sullivan that you intended, after getting that information, to hold Kaufman up and rob him? A No, sir.

Q When you left 8 Bethune Street, Sullivan's residence,

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on that morning, the morning of the robbery, did you leave that house, 8 Bethune Street, alone? A No, sir.

Q Who was with you? A Sullivan.

Q Where did you and Sullivan go after leaving 8 Bethune Street? A We walked about ten minutes; I am not acquainted with the city; and he left me, right in the neighborhood of his own home.

Q And in which direction did he go after leaving you?

A That I can't say. I took a car.

Q Then you went away, did you? A Yes, sir.

Q Did you tell Sullivan where you were going? A No, sir.

Q Did you tell him you intended to rob anybody? A No.

Q Did you have that pistol with you at that time? A Yes.

Q And was it loaded? A I believe so.

Q What time was it that you parted from Sullivan, about ten minutes after you left his home? A Well, it could have been nine o'clock.

Q About nine o'clock, and where did you spend the time between nine o'clock and half past eleven, when you met Kaufman? A Took a car from some street off Abingdon Square and went over to, I believe it is Third Avenue.

Q A cab? A A car.

Q Down at Abingdon Square? A It is in the neighborhood of where Sullivan's home is,

Q You took a car and went over to Third Avenue? A Yes.

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Q And did you walk up to 22nd Street or ride? A I walked down from an elevated station.

Q And you got to 22nd Street? A I believe that is the street.

Q Was it in the hallway where this robbery took place?  
A Upstairs in the hallway, yes, sir.

Q One flight up? A I believe it was, about.

Q And what kind of building was it? Was that in the building where the workmen were working? Was that in the factory, or in a private building? A No, it was a silk dye house; it was a yellow stone structure.

Q You had never seen that building before, had you? A No. I had seen it once.

Q You knew where it was? A Yes, sir.

Q When you left Sullivan and got as far as Abingdon Square and took the car, from that time until you got up to this dye factory on 22nd Street in this city, you were alone all the time, were you? A Yes, sir.

Q In the company of nobody? A No, sir.

Q You are awaiting sentence here in this court? A Yes.

Q From the 15th of this month, upon the plea of guilty which you entered? A Yes, sir.

MR. SULLIVAN: That is all.

CROSS-EXAMINATION BY MR. SHERIDAN:

Q You say you are thirty-two? A Yes, sir.

Q And your home is in Boston? A Yes, sir.

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Q And you were in the war? A Yes, sir.

Q You feel sorry for Sullivan? A I feel sorry?

There is nothing to be sorry for.

Q You feel sorry for him now, don't you? A I feel sorry that he is in this predicament, yes, sir.

Q As a matter of fact, Kilroy, in spite of the crime that you committed on the 22d of May, you have a pretty high sense of loyalty, haven't you? A Yes, sir, I have.

Q You don't like to squeal, do you? A No.

MR. SULLIVAN: If your Honor please, I object to that. In the first place, I object to the form of the question; I object to the employment of the word "squeal."

THE COURT: Reshape the question.

Q You are not in sympathy with a man who would make a confession involving others who were engaged in the commission of a crime?

MR. SULLIVAN: One moment. I object to that, whether he is in sympathy, or not, is immaterial.

THE COURT: Objection overruled.

MR. SULLIVAN: I take an exception.

A Put the question again, please.

Q You wouldn't be in sympathy, you wouldn't care for you wouldn't like for a man to confess on another who was engaged in the commission of a crime with him? A I wouldn't call it right, no, sir.

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Q You have a sense of loyalty, haven't you? A I believe so, yes.

Q And you lived at Bethune Street for two days? A Yes.

Q And you feel sorry for Mrs. Sullivan, don't you?

A Naturally.

Q And you know she is in a pregnant condition, don't you?

A I am given to understand that, yes, sir.

Q And you know she has a little boy five years old?

A Yes, sir.

Q And you are good natured, aren't you? A I am? I don't know.

Q Are you good natured? Are you generous? A I am inclined to be.

MR. SULLIVAN: One moment. I object to this examination.

THE COURT: Objection sustained.

Q Now, you knew Sullivan for three weeks, didn't you?

A Prior to the crime, yes, sir.

Q And you were tending bar in Jersey? A Yes, sir.

Q In Greenville? A Yes, sir.

Q And that is where Sullivan was working? A Yes, sir.

Q And he had been working there for how long? A He was working on the cars.

Q And you met him? A Yes, sir.

Q And you were tending bar? A Yes, sir.

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Q When did you first hear of Abraham Kaufman? A When I asked Sullivan about his thumb. He had an abrasion on I believe it is the left thumb.

Q And you asked him a lot of leading questions; is that it? A Yes, sir.

Q You didn't leave Greenville and come to 8 Bethune Street with the idea in your mind at that time of committing a crime, did you? A No, sir.

Q Were you pretty friendly with Sullivan? A Quite friendly, yes, sir.

Q Was that the first time that you had occasion to visit his house? A Yes, sir.

Q Did you meet Mrs. Sullivan before May 22d? A Yes, sir.

Q Where did you meet her? A In Greenville, N.J.

Q Did she call over to you - I withdraw that question. Did Sullivan spend his evenings in Greenville after the completion of his work? A He spent one or two evenings in the saloon, yes, sir.

Q He put up for the night on one or two occasions during the week; is that right? A One occasion that I remember of.

Q And Mrs. Sullivan called at Greenville, and you met her at that time? A Yes, sir.

Q And that was how long before May 22d? A Possibly two weeks.

Q You only had known Sullivan one week before this, hadn't you? A I only knew him about twenty-four hours when he

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stayed there all night in the salon with me one night.

Q How long had you known Sullivan before May 22d?

A Possibly three weeks.

Q Possibly three weeks, and had you written to your friend, Miss Cusick, to come down from Boston? A We had been corresponding.

Q And you wrote her a letter asking her to come to Jersey?

A I wrote her a letter and asked her to come, yes, sir.

Q That is what I asked you. Did you, or not? You say, "Yes?"

A Yes.

Q And she stopped at the house where you were living?

A Yes, sir.

Q And you occupied different rooms? A Yes, sir.

Q Is it your sense of loyalty that prompts the last answer that you gave, or did you share one room with her?

A No, sir, we had separate rooms in Greenville.

Q You stayed there for two weeks, and she stayed at that house for two weeks? A Yes, sir.

Q And you first learned of Abraham Kaufman about a week before May 22d; is that correct? A About a week, yes, sir.

Q And what brought about the mention of Kaufman's name was the abrasion on Sullivan's thumb? A Yes, sir.

Q And then he told you about this man Kaufman? A Yes, sir.

Q And you asked him questions? A Yes, sir.

Q And he told you how mean the man was didn't he? A He told me two or three things about him.

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Q And was it at that time that you thought of committing this crime? A Well, it entered my mind at that time, yes, sir.

Q Was the crime of robbery of frequent occurrence with you? A No, sir.

Q Or was this the first venture? A The first time I ever thought of robbery in my life.

Q That was your first venture in crime? A Yes, sir.

Q Had you previously been convicted of a crime, before May 22d? A Once, in France.

Q What was that? A Grand larceny.

Q In connection with a robbery? A Well, it was in connection with a robbery, yes, sir.

Q And were you ever sentenced in Boston? A No, sir.

Q Did you ever tell the police that you were sentenced to two years and a half in Boston? A I told Officer Donlin that, I believe.

Q Why did you tell him that? A I was beat into submission; I was telling them almost anything, saying anything to random.

Q And you told them two years and a half at Boston, but that is not a fact? A No, sir.

BY THE COURT:

Q Where was this beating? A At the 22nd Street police station, your Honor.

Q By whom? A Officer Donlin and Officer O'Neill.

Q What was done to you? A They hit me with a blackjack.

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Q Who did? A Officer O'Neill and Officer Donlin.

BY MR. SHERIDAN:

Q Where were you beaten? A I was beaten in the station house, in 22nd Street.

Q I know, but what part of your body, I mean? A On my  
and  
ear and my arm, /right here (indicating.)

Q Did they draw blood? A Yes, sir.

Q From the side of your face? A From the side of my face, here (indicating), and from my ear.

Q What time were you arrested? A I was arrested about 11:30 - well, about 12:30.

Q 12:30? A On Saturday afternoon, May 22nd.

Q Was it past the noon hour when you were arrested?

A Yes, sir.

Q What time was this crime committed? A Between 11:30 and 12:00, I believe.

Q And immediately after you committed the crime you ran out of the building? A Yes, sir.

Q And you ran to Second Avenue? A I ran down one block on the righthand side of Third Avenue.

Q And you got into an undertaker's store, didn't you?

A No, sir.

Q Did you go into that house and through the yard?

A I went into a back yard.

Q You went into a yard and over the fence? A Yes, sir.

Q And into the school? A Yes, sir.

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Q And when you got into the school you took off your hat and coat and played the role of a workingman, didn't you?

A Yes, sir.

Q And you were apprehended in a classroom, or coming out of a classroom, by Officer Flannelly? A Yes, sir.

Q And he brought you to the stationhouse? A Yes, sir.

Q Now, what time was that? A It was after noon time; I believe it was possibly one o'clock; I didn't have any watch with me; I don't know.

Q It was about one o'clock. Now, you know that Sullivan, Mrs. Sullivan and Annie Cusick were brought to the station house shortly after one? A Yes, sir.

Q Did they see you in this bleeding condition? A Yes, sir; they did.

Q Was your hair matted with blood? A Yes, sir.

Q And the side of your face was discolored? A Yes, sir.

Q And what did they beat you with? A Beat me with a blackjack.

Q Sure it was a 'blackjack? A I absolutely know for a positive fact that it was a blackjack.

Q And you told them all the story? A I told them nothing, no, sir.

Q You didn't tell them anything involving Sullivan or Sullivan's wife? A No, sir.

Q Under the influence of this beating, did you tell them? A I don't know what I told them; I went into a fit

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there and commenced hollering everything.

Q Now, you say one week before May 22nd you thought of this robbery? A Yes, sir.

Q Just a vague notion? A It just entered my mind, that is all, to be dispelled the next moment.

Q It was dispelled the next moment? A Yes, sir.

Q It had not assumed any definite form as to details?

A No, sir.

Q When did it take on the character of details? A When I came to New York City.

Q That was two days - A On Thursday.

Q Did you have another conversation about Kaufman? A Yes, I asked Sullivan quite a few more questions concerning this establishment on 22nd Street.

Q Did you ask him where it was? A Yes, sir.

Q And he told you? A Yes, sir.

Q You never told him what you contemplated doing?

A No, sir.

Q All day Thursday you said nothing about this, did you?

A No.

Q You didn't commit the crime on Thursday? A I committed a crime on a Saturday.

Q You asked him about Saturday being the pay-roll day?

A Yes, sir.

Q And you didn't have a gun at that time, did you? A Not at that time, no, sir.

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Q You knew that would be a necessary and indispensable part of your performance to have a revolver, didn't you? A Yes.

Q And you had given thought to this proposition on a Thursday? A Yes, sir.

Q And you had no gun? A Not at that time.

Q Had you made arrangements for the getting of the gun? A Yes, sir.

Q Where? A In Jersey.

Q Whereabouts in Jersey? A In the saloon; the fellow used to come in there quite often that I knew carried a revolver; in fact, had a permit to carry a revolver, I believe.

Q How did you communicate with him? A I was still tending bar when I asked him about the revolver.

Q What time did you arrive in New York on Thursday?

A I believe it was shortly after dinner.

Q About 12 or 1:00 o'clock? A I believe it was about that time.

Q What time had you left Jersey? A Left Jersey around 12 o'clock, around the noon hour.

Q So that when you left Jersey you came over here to do this job, isn't that a fact? A Yes, sir.

Q That is it; you came over here to do it, didn't you? A Yes, sir.

Q And you didn't have the gun then? A No, sir.

Q But you knew a fellow that had a permit or who ought to have a permit to carry one? A Yes, sir.

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Q And you then started to ask these searching questions of Sullivan, didn't you? A Yes, sir.

Q And how long did you ask these leading questions?

A Oh, at intervals, - I wouldn't ask - I would ask a question now, possibly, and then another again in the course of an hour.

Q You would ask him one, and in an hour or so you would ask him another? A Yes, sir.

Q And over a period of two or three hours you had obtained the information you wanted? A Yes, sir.

Q And the mere outlines of your story that you wanted was, Who was Kaufman? A Yes, sir.

Q Where he was, and what would be the time to go there to get him, those are the things you wanted to know, wasn't it? A Yes, sir.

Q And what time of the day when he had the fifteen hundred, wasn't it? A Yes, sir.

Q That was the big thing, the fifteen hundred. Now, will you kindly tell me by what manner of leading questions you elicited the information from Sullivan as to that payroll, what question did you ask him and what answer did he make? A I asked him how he came to get the abrasion on his left thumb, and he said while working in a silk dyeing establishment on 22nd Street. I asked him a few more questions; I asked him how long he had worked there, possibly, and while he was working there if he had any knowledge of how much the payroll was?

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Q What did he say about that? A And he says he believed it was in the vicinity of fifteen hundred or eighteen hundred dollars.

Q Now, you had never stopped at Sullivan's house before that Thursday, had you? A No, sir.

Q And how many rooms did he have in his apartment? Three, didn't he? A If I remember correctly, yes.

Q There was one bed room, where four of you slept, isn't that correct? A Yes, sir.

Q Occupied two beds? A Yes, sir.

Q He was not in a position to entertain guests very often, was he? A No, sir.

Q And you hadn't stopped at his house before that night? A No, sir.

Q When you called at his house on that Thursday, did he ask you, "Larry, what are you doing here?"? A No, sir.

Q Did he ask you whether you were going to stay for the afternoon or whether you were going to stay that night? A He was with me at the time.

Q I know, but did you tell him at that time, that, "I am going to stay and sleep here tonight?" A No, sir, not at that time.

Q When did you first inform him that you were not going back to Greenville? A When we left the theatre that night.

Q While you were at the theatre did you ask him any more leading questions? A Not that I remember, no, sir.

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Q Did he have to be led every time he gave you the answers? A Well, he gave me the impression that he was wondering why I was asked him these questions.

Q Oh, he gave you the impression that he was wondering why you were asking him these questions? What did he say?

A I recall one time he looked at me in a kind of casual way.

Q He gave you a glance, and what did you say? A I covered it up as best I could.

Q Do you think this fellow Sullivan is a fool? A No, sir, I do not.

Q Do you think that he has got a certain amount of commonsense that a man usually has? A Yes, sir.

Q And he looked at you? A Yes, sir.

Q And you tried to cover it up? A Yes, sir.

Q But you asked him the leading questions that Thursday night, didn't you? A I can't recall whether I asked him anything at all Thursday night, or not.

Q Well, did you ask him about your bed and board that day or that night? A No, sir, not until after we left the theatre.

Q And what did you say? Did you say, "I am going to stay at your house?" A We came to his home after the theatre.

Q And he invited you to stay? A Yes, sir.

Q You had not worked that day, had you? A Not on that Thursday, no, sir.

Q Why? A Because I came to New York.

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Q Any other reason than the mere coming to New York that prevented you from working? A No, sir.

Q It was not your day off? A No, sir.

Q You took that day off? A Yes, sir.

Q And you took the next day off? A Yes, sir.

Q And you took that Saturday off? A Yes, sir.

Q And did Sullivan work Thursday? A No, sir.

Q Did he work Friday? A No, sir.

Q Did he work Saturday? A That I can't say.

Q Well, what time ~~x~~ did he usually go to work? A Myself.

Q No, Sullivan. A I don't know. He worked on the cars; he had different hours.

Q Did you inquire whether he was going to work that Saturday? A I don't remember whether I did or not.

Q Now, Friday did you ask him any questions? A Yes, sir.

Q And what time was it, in the morning, afternoon or evening? A It was in the afternoon, I believe.

Q And did he again look at you in that look of amazement?  
A No, he answered my questions.

Q Did he at any time ask, "Why do you ask these things?"  
A No, sir.

Q Did he describe Kaufman to you? A Yes, sir.

Q Did he ask you, "Now, what is that your business, Larry?" A No, he never said that to me that I can recall.

Q Did he say, "Larry, what is your game?" A No, sir.

Q What are you going to do?" A No, sir.

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Q He asked you none of those questions? A No, sir.

Q But one time he looked at you with quite an inquiring look? A Yes, sir.

MR. SULLIVAN: I object to the District Attorney going through that maze so often. He has asked him that question now about eight or ten times.

THE COURT: Objection overruled. Go ahead.

MR. SHERIDAN: Is it overruled?

THE COURT: The objection is overruled.

Q So that Friday you again asked him questions? A Yes.

Q And Friday night did you tell him anything? A No, sir.

Q You never told him you were going to commit this crime? A No, sir.

Q You never confided to anybody? A No, sir.

Q Did you ever confide to your sweetheart? A No, sir.

Q Saturday morning came and the time was drawing near for the crime, wasn't it? A Yes, sir.

Q And you had all the essential details that you wanted at that time, didn't you? A Yes, sir.

Q Except the revolver? A Yes, sir.

Q And did that man in Jersey, in Greenville, who had the permit, bring it over that morning? A Yes, sir.

Q What time? A I met him on Abingdon Square about five minutes after I left Sullivan.

Q What time did you leave Sullivan? A About 8:30, I believe.

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Q At 8:30 you left him? A Yes, sir.

Q What was this man's name? A McKenna, if I recall correctly.

Q The first name unknown? A Unknown, yes, sir.

Q Have you known him long? A I have known him before I came to New York.

Q Did you ever tell that story to the police? A No, sir.

Q On the contrary, did you tell the police that Sullivan gave you the gun? A No, sir.

Q Never made that statement in the station house? A No, sir, not that I recall, no, sir.

Q Not that you recall? A No, sir.

Q In the station house you were in possession of your faculties, weren't you? A Until the time I was hit.

Q Oh, until you were hit? A Yes, sir.

Q Sullivan didn't give you the gun? A No, sir.

Q Sullivan's wife didn't see the tape on the inside of your trousers? A No, sir.

Q Did you wear a vest that day? A No, sir.

Q Did you have a slit in the back of your coat? A No, sir.

Q When did you sew the tape on the inside of your trousers?  
A On Saturday morning.

Q You did that quietly, unknown to the others? A Yes.

Q Did you have the gun then? A No, sir.

Q Did you measure the gun into the slip of the tape? A No.

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Q Which side of your trousers did you sew that in, the left, or right? A The righthand side.

Q And where was it, right here (indicating)? A Two inches below the fob pocket.

Q And you carried it that way (illustrating)? A Yes.

Q Hanging in there? A Yes, sir.

Q That gun was not on a shelf in that room, was it? A No.

Q Did Sullivan go to 22nd Street and Third Avenue with you that day? A No, sir.

Q Did you go up to the building and watch Kaufman come out? A Yes, sir.

Q Did you see Kaufman go to 353 Third Avenue? A No, sir.

Q Did you see him leave that building? A Yes, sir.

Q Where did he go? A 369 Third Avenue.

Q 369? A Yes, sir.

Q That is a dyeing establishment? A I believe it is.

Q Did you go back to Sullivan and say, "Kaufman went to 369 Third Avenue?" A I went back to the corner of Third Ave. and 22nd Street and waited for Kaufman.

Q Did you know at that time that that was a dyeing establishment? A No, sir.

Q Did you go back and see Sullivan and say, "Kaufman went to 369 Third Avenue?" A I didn't see Sullivan.

Q And did he say to you, "That is all right, that is a dyeing establishment, take him home?" A No, sir.

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Q And did you take him home? A No, sir.

Q You aited at 22nd Street and Third Avenue? A Yes, sir.

Q And you saw this man pass along? A I saw Kaufman pass.

Q Kaufman passed back? A Yes, sir.

Q And then did you proceed immediately up into that building, did you go ahead of him into that building? A Into his own place, yes, sir.

Q And when you met the man on the stairway what did you say to him? Did you say, "Are you Abe Kaufman?"? A No, sir.

Q What did you say to him? A Told him to give me the payroll.

Q Did you ask him, "Are you Kaufman?"? A Yes, sir, I believe I did.

Q Why did you ask him that? You knew that, didn't you? A I wanted to be sure.

Q And you took his payroll? A He didn't have any.

Q You took seven dollars? A Yes, sir.

Q You took these papers (People's Ex. No. 2)? A I don't know whether they are the papers, or not. I took some papers.

Q One of the papers was a check for five dollars? A Yes.

Q You pointed the revolver at him? A Yes, sir.

Q You told him to put up his hands? A Yes, sir.

Q You hit him on the side of the head when you finished?

A No, sir.

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Q You didn't strike him at all? A No, sir.

Q What did you do, run downstairs? A Yes, sir.

Q And when you got downstairs he shouted? A Yes, sir.

Q And what did you do, keep running? A Kept running, yes, sir.

Q And then you were apprehended? A Yes, sir.

Q Did you have an appointment with the man who gave you that gun? A Yes, sir.

Q When did you make that appointment with him? A By telephone.

Q By telephone that morning? A Yes, sir.

Q Where did you telephone? A Bergen 5383.

Q You could give me that a week ago, couldn't you? A The saloon that I worked in.

Q You telephoned there and in half an hour after you telephoned a man appears with the gun? A I didn't say when I telephoned.

Q Oh, when did you telephone? A The day before.

Q Oh, the day before? A On a Friday.

Q What time? A Well, it was around four o'clock in the afternoon.

Q I thought you said a little while ago that you had all the details of this transaction except that you didn't have a gun? A I did.

Q Did you have a gun Friday? A No, sir.

Q Didn't you state in answer to Mr. Sullivan that you

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had paid for the gun? A I had paid for the gun on a Thursday.

Q Why didn't you get it? A He didn't have it with him.

Q And when did he bring it over? A Brought it over Saturday morning.

Q Did you make an appointment with him on Friday by telephone? A Yes, sir.

Q And he said he would bring it over? A On his way to work.

Q And you met him at Abingdon Square? A Yes, sir.

Q Where did he work? A I don't know.

MR. SHERIDAN: That is all.

REDIRECT EXAMINATION BY MR. SULLIVAN:

Q You say that you were 27 months in France, or 26 months? A Yes, sir.

Q You were in battles over there, were you? A Yes, sir.

Q How many battles? A Three different engagements.

Q What were they? The Argonne Forest? A The Argonne Forest, the Meuse, and the Battle of the Marne, and later St. Mihiel.

Q And the St. Mihiel Drive you were in. Were you in the Battle of Arras? A No, sir.

Q And the Argonne Forest? A Yes, sir.

Q And you were wounded there? A Yes, sir.

Q How many times were you wounded? A Three times in all.

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Q Three times altogether? A Yes, sir.

Q And you were in hospitals in France on account of those wounds? A Yes, sir.

Q And you also received hospital treatment here? A Yes.

Q That is, in the military hospitals in this country?

A Yes, sir.

Q Do you remember that I called upon you in the counsel room in the City Prison on the afternoon of the day that Judge Crain assigned me to defend you and Sullivan, that I had a consultation with you in the counsel room? A Yes, sir.

Q Do you remember calling my attention to the fact that your face was discolored, and you told me about the beating that you had received at the hands of the police in the station house? A Yes, sir.

Q And do you remember you wanted me to take action at that time? A Yes, sir.

Q And I told you to wait and tell your story in court? A Yes, sir.

Q Do you remember that? A Yes, sir.

Q The time that the record which the police claim they got from you of serving time in State Prison in Massachusetts, at that time you were serving your country in France, isn't that right? A Yes, sir.

Q And that record is here now; at that time you were actually in France, fighting over there? A Yes, sir.

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Q When you were supposed to be in State's Prison in Massachusetts? A Yes, sir.

MR. SULLIVAN: That is all.

THE COURT: (To the Jury) Gentlemen, you must not discuss this cause, nor form nor express any opinion about it, but keep your minds open and free and clear until it is finally submitted to you. Be in your places tomorrow morning at half past ten.

(The Court then accordingly took a recess until tomorrow, Friday, June 25, 1920, at 10:30 o'clock a.m.)

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THE PEOPLE, etc., vs. ROY SULLIVAN.

New York, Friday, June 25th, 1920.

TRIAL CONTINUED

MR. SULLIVAN: If your Honor please, I renew the motion which I formerly made, and ask your Honor for a direction of a verdict of acquittal, on the ground there is not sufficient evidence in this case to warrant the defendant to go to trial, that is, to put in a defense.

The evidence here - There is no confession as far as the policemen are concerned. The only evidence is the evidence of the Cusick girl, and I ask your Honor for the direction of a verdict, on the grounds the prosecution have not established the guilt of this defendant, no reasonable grounds on which to submit it to the jury.

THE COURT: I will hear you, Mr. Sheridan.

MR. SHERIDAN: Pardon me ?

THE COURT: I will hear you on the motion.

MR. SHERIDAN: If your Honor pleases, The People have produced witnesses whose testimony no doubt is fresh in your Honor's mind.

Miss Cusick has testified to the fact that while she was at number 8 Bethune Street she heard the defendant, Roy Sullivan, his wife, Ella Sullivan, and Kilroy

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plan the robbery and hold-up of a man; that she saw a piece of tape sewed on the inside of the trousers of Kilroy; that she saw the gun which was given by the defendant to Kilroy, or, at least, if it was not given to him, it was taken out. There was a conversation had with reference to it, and he placed it on the shelf, and that later on in the same day, about twelve o'clock, he returned to the house and stated that Kilroy would be in later; and the officer has testified that when he brought the defendant to the station house that he at first questioned Kilroy and then questioned Sullivan, and that Sullivan stated "Well, Larry, I didn't send you on a frame-up". I think that is the testimony of the officer. Here is his testimony, page 37. "He stated 'All right'; he said 'As long as Sullivan - as Kilroy told the truth, it was all up', but, he said, 'I want to tell you, Larry, that I didn't frame you up'; he said 'I sent you over there, but I didn't want you to think that I framed you up'". That is the testimony of the officer; and of course, if your Honor views the testimony of Miss Cusik as unworthy of belief, or as perhaps part of the crime, then the prosecution would have to rely solely and exclusively on the testimony of this police officer.

THE COURT: I don't think, from a consideration

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of all the evidence and the relationship between these different individuals, that you have made out a case that is free from reasonable doubt.

The close relationship between Kilroy and this young woman, the arrest of them all, the separation of her for a period of time, and perhaps the desire to help Kilroy, his own testimony, taking the full responsibility for the offense, somewhat influenced, perhaps, by a sense of loyalty, but may be not, I don't think in legal values you have made out a case that would justify me in denying this motion.

The Statute, of course, is plain, that if at the end of the case, The People's case, the Court has the view that the case has not been made out to the standard required by the law, that it is the duty of the Court to advise the jury to acquit.

I think that the quality of the proof is not enough. We may surmise and speculate about it, but the crime charged here is a very atrocious one, carrying with it most severe punishment, and richly deserved when clearly established.

I will grant the motion and advise the jury to acquit.

(The jury accordingly find the defendant not guilty.)

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Amos G. Russell,  
Official Stenographer.

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