

Q Now, Doctor, have you anything to say about this part, as far as the human hand is concerned. As I understand the theory of strangulation in this case, you have heard me read the testimony and see whether I am correct or not: "That the muscular tissues at the base of the tongue and the floor of the mouth near the hyoid bone, that is the bone to which the tongue is attached, were found contused, infiltrated with blood and swollen". Now, they are the marks of strangulation in this case as far as the inflammation is concerned, is that right? A Yes, sir.

Q You have heard me read this to you? A Yes, sir.

Q Have you anything to say about the seat of these injuries so far as the human neck is concerned, being applied while a man is standing up, grasped by the neck with the left hand on the right shoulder and the right hand on the throat. Do you understand me? A I do not.

Q What I mean is this, if you noticed these injuries, that is, the infusion, infiltration of the blood and the condition of his tongue near the hyoid bone? A Yes, sir.

Q And the base of the mouth? A Yes, sir.

Q Now, if you placed a man in the position of placing his hand on the shoulder, the right hand on his neck, are not those injuries too far back to have been done by the human hand placed in that position? A Now, will you allow me to

answer that question without interrupting me?

Q Of course I will? A I suppose if you got ten very good men accustomed to making autopsies who told me that they saw a case of strangulation in which the windpipe was compressed and in which there was no marks left, I might begin to think it possible to strangle without leaving a mark on the skin, so, as the Scotch phrase is, I would "hae me doubts"; but if you asked me to believe that injuries such as you have described were produced by the hand, leaving out external marks, I would say absolutely it is impossible.

Q It could not be done? A No, sir; it could not be done.

Q That is the location of the place where there was contusion and infiltration? A Precisely.

Q So you are prepared to swear that these injuries were produced by some other means than the human hand? A Unquestionably. When I speak of the human hand, I mean exactly the human hand, not including the arm; that is, the human hand as a prehensile implement.

Q There cannot be any doubt it? A No, sir; not in my mind.

Q Assuming that a man received two wounds which are described as follows: One transverse in length, gaping so that it was one-half a centimetre in width over the lower margin

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of the right seventh rib, six centimetres to the right of the spine, perforating the space between the seventh and eighth ribs; that the wound extended into the posterior part of the lower lobe of the right lung; that the length of the wound on the surface of the lung was one centimetre, and the width one-half a centimetre and the depth of the wound was one and one-half centimetres; that the lung post mortem, was found collapsed to about one-half its normal volume, and that the depth of the wound from the skin to the end of that part of the wound in the right lung was two and one-half inches, and that internal hemorrhage was impossible on account of the adhesion between the lung and the chest wall, and that no hemorrhage occurred about the lung, but simply in the area of the wound."

I am reading that from Dr. Schultze's testimony here. Assuming that to be true, in your opinion, could that wound have caused death? A It could; but it would take considerable time to cause death.

Q I should have said, could that wound have caused death in twenty minutes? A No, sir; it might cause death in a few days by causing traumatic pneumonia.

Q Could it cause death in half an hour? A No, sir.

Q Impossible? A Yes, sir.

Q Then I can eliminate that. Assuming that the man died

in a half an hour after the injuries were inflicted, I can leave out of this case, as the cause of death, the stab wound as described by Dr. Schultze? A Absolutely. Dr. Schultze would not question that himself. He is too good a man.

Q He left that out? A Yes, sir; he was quite right in doing so.

Q Now, Doctor, from what you observed when you examined this man, in your opinion did he die of strangulation by the hand? A No, sir.

Q Doctor, you did not find any bullet in this man's body?

A No, sir.

Q You informed the people that sent you there? A Yes, sir; I did.

Q And that was told at the time of the second examination, wasn't it? A Yes, sir; it was told.

Q When did you tell it? A Right away.

Q Was Dr. Massour present at the time, and he is a Syrian who speaks the Syrian language? A Yes, sir; he was present.

Q And he knew the result of this autopsy? A He did.

Q And he explained that to the Syrians present, did he, talked to them in Arabic?

Objected to. Objection sustained. Exception.

CROSS EXAMINATION BY MR. TRAIN:

Q Dr. Williams, I have drawn a very inaccurate outline of

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a human head on this pad, just for the purpose of better understanding your testimony, will you insert in there for me where the windpipe is, without reference to this part (indicating).

This is about the size of an ordinary human neck? A Yes, sir.

Q Now, just put it in there? A I imagine right about here you would have the thyroid cartilage, and here above you would have the hyoid bone.

Q About where would that be? A (Witness indicates.)

Q Right in the front of the neck? A Yes, sir; with the esophagus behind.

Q Did you examine or observe those lesions or whatever they were, inside the neck? A No, sir.

Q So that you are dependent entirely, in your diagnosis, or in your answer, on the testimony of Dr. Schultze which has been read to you? A Precisely.

Q As to the actual condition? A Yes, sir.

Q You explained that you drew a distinction between strangulation and choking. I don't know how closely Mr. Osborne has made that distinction in asking you questions, and I think you answered that in strangulation there would always be marks visible on the neck? A Yes, sir.

Q But that that was not true in the case of choking. Now, in your opinion, was the deceased in this case strangled or choked to death? A He was not strangled to death; in my

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opinion he was choked to death.

Q So that you would not necessarily expect to find in this case any marks on the neck? A I would not.

Q You would not? A No, sir.

Q The hyoid bone, where is that? A Above the cricoid cartilage, right here, as far as you can put it (illustrating).

Q What sort of a looking bone is it? A It is a long bone with horns, as you might phrase it.

Q In the neck? A Yes, sir; deep, cup.

Q What is it attached to? A To the tongue; the tongue is attached to it in parts.

Q Attached at each end? A The tongue is attached to it in parts.

Q The bone itself, is it attached to any other bone?

A No, sir.

Q It is that bone which would be torn from the tongue, or the tongue torn from the bone, in case of this pressure exerted, such as Mr. Osborne described? A It might or might not be torn.

Q But that was the testimony here, wasn't it? A I presume so.

Q There was a lesion? A Yes, sir; this pressure you speak of might or might not tear or injure the hyoid bone.

Q There are a great many vessels, and so forth, that may

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be torn? A Yes, sir; very vascular, the whole supply around there.

Q That is, enough blood to choke up the passage to prevent respiration would cause a choking? A A large clot that extends to the bottom, a clot gradually accumulated.

Q You spoke of a band of cloth, a belt or something of that sort? A Yes, sir.

Q Which could be used to choke? A Yes, sir. Pardon me, it could not be used for choking unless you stuffed it down the throat; it could be used for strangulation.

Q Could not that cause the pressure you speak of which would tear and eventually cause this retarded strangulation? A No, sir; it would not, because a very considerable amount of violence--when I speak of the possibility of strangling a person without leaving external marks, making an exception of the case in which this band is used, by drawing the band of velvet, I spoke of a slow, steady drawing of the band, in that fashion, it will do nothing but compress the windpipe; but any kind of a sudden pull on that would tear away the connections^{up there} and would invariably leave a mark on the neck.

Q I understood you to make use of the illustration of choking. You used it as an incident to the ordinary form of strangling? A Yes, sir; to the ordinary form of strangulation.

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Q What kind of force would cause choking such as you have described? A It could be swelling; the mouth full of pressure--

Q External violence? A Yes, sir.

Q If the force was applied in a particular way, or in a particular part, or in a particular direction, it would take less force than if applied in others? A Yes, sir.

Q You used the illustration, I think you said "somewhat padded surface," the arm for example, if that was pressed against the base of the throat causing a lesion inside, that could cause a retarded strangulation^{or} a choking? A Yes, sir.

Q And it might leave no mark at all? A Yes, sir.

Q What other force could be applied to the throat without causing a lesion, a retarded strangulation or a choking of that sort? A Nothing that I know of, except the one I speak of, or anything answering the purpose of such a band. A small bamboo, for instance, that the thugs use in India. The steady pressure of that bamboo,--the skin is so very, very smooth, as smooth as a billiard ball, that the danger of fraying the skin on the surface, even of a delicate woman or child that they were attempting to kill, would be reduced to the minimum. The arm, also, I imagine.

Q I think you said that the band would give a perfect case of strangulation, compression of the windpipe? A Cer-

tainly.

Q I am not talking about strangulation, I am talking about choking, because you said in cases of choking you would not necessarily expect to find external marks of violence?

A I would not.

Q I want to know how a man could be choked without leaving external marks of violence? A Perhaps we had better begin by more accurately defining our terms. What I mean by strangulation is compression of the main respiratory passage, ab-extro. Sanwrit wrote it "stranca". In my acceptation of the term it is the impediment to the entrance of the air through the main respiratory passage produced by different causes. Now, that cause might be simply an arrest in the throat, in the gullet, the swallow, of a piece of meat, which will press from behind forward upon the windpipe. That I call choking. Clearly that would leave no external mark. The pressure of the arm or of a bamboo, or of this ribbon that we are so much interested ⁱⁿ, if applied might kill a man without leaving any external mark of violence, but not kill him by strangulation, but kill him by choking; by the bringing about of a large clot inside which will occlude the respiratory passage from inside; that is a different proposition altogether.

Q In whatever questions I may ask you, and whatever answers you may give, I am not going to speak of strangulation

at all, I am going to confine myself to choking. I may use very inaccurate language? A I don't think it is possible.

Q I will confine myself to choking, because you said you would not expect necessarily to find external marks in the case of choking, leaving out the cases that where a patient would have something rammed down his throat, how you could be choked by the application of external force without leaving any marks on the throat. What kind of force and applied in what way could produce that result? A Without leaving any external marks of violence. The back of the arm applied in a so-called, but incorrectly so called, strangle hold will kill a man without leaving any external marks of violence; will kill him by choking him.

Q When the strangle hold is used, and used incorrectly, I will call it a choking hold, what is the result of the force that is thus applied to the neck, how does it cause strangulation? A The result of the force is the tearing of the tissues in the immediate periphery of the upper portion of the main respiratory passage. The exudation of blood from the vessels torn in the tearing of that tissue causes about the upper portion of the respiratory passage, a blocking of that passage, possibly, by a clot having formed. To explain, at one time I removed the lower jaw of a boy, and he was put upon a cot to rest. He was found to be, dying a minute or two after-

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wards by the assistant. I went in and removed with my finger a large clot, and the lad was alive ten years afterwards and maybe alive to-day. So that is a case in which the formation of a clot behind, gradually growing from the gradual outpouring of the blood and the occlusion of the respiratory passage from inside.

Q Now, that condition inside the throat was about the condition which was found in this case, wasn't it? A Yes, sir, so I understand.

Q So, to begin with, the deceased in this case might have met his death by the application of the choking hold without any mark of external violence being found upon his neck?

A Yes, sir.

Q Now, of course, that would be simply one form; there must be many ways in which the same kind of force could be applied to the neck to produce the same result? A Yes, sir.

Q What would you say were the essentials of the application of that kind of force to produce this result, without leaving marks of violence upon the throat? A Stretching of the tissues on the inside beyond their endurance, their continuity.

Q Supposing a person uses some sort of a thick piece of wadding and forces that against the throat, the same result would be secured, any object not rough or too sharp to cause

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an abrasion if forced against the throat might cause that result, might it not? A Leaving no marks externally?

Q Yes. A Provided that the force was applied high up, because whatever be the mode of application of the force, the pressing instrument or agent, if it is used low down on the neck, where you have the resisting cartilages of the windpipe, you are bound to have ecchymosis, because the tissues here, the little blood vessels, are between the upper and nether millstones, if I may so put it.

Q I am assuming it was high up. It has to be applied high up to get the choking hold? A Yes, sir.

Q Now, this is not trivial, and it is not meant in a trivial manner at all. Supposing you had a man down on the ground, suppose the foot could be placed against the neck high up in such a way as to cause such a result? A Well, you must not expect me to be trivial either. It might be done with a baby's foot, but with a man's foot, and especially a foot shod, the application of that in choking or in strangulation would leave very considerable marks upon the skin, unless you had the skin of a rhinoceros.

Q How would the bottom of a foot differ from the outside or inside of the arm of a strong man? A Do you mean the bare, maked foot?

Q I am talking about the application of one part of the

human body or several parts of the human body to the neck in such a way as to cause choking. Do you see what I mean?

A I do thoroughly, and I must pay a tribute to your ingenuity in putting the question. Let me explain. You speak of a man on the ground. You must remember that you might put a foot upon the ground, but you cannot put it above in such a fashion unless it were a baby's foot, an even infinitesimally small foot--in such a fashion as to ^{leave} uncovered or naked or unaffected, this structure here (indicating); but with a person standing up it is a different thing. You push up here (illustrating). You can keep a hand away, or the opposing force, whatever it is, bamboo, ribbon or arm, you can keep that away from here; but a man on the ground with the tendency, with the head resting on the ground, to throw the chin forward, you could not do it except by some piece of legerdermain, and you would put your foot in it if you tried.

Q You would have to have an object to place against the neck of a size that would prevent its being diverted to accomplish this purpose without abrasion? A Yes, sir.

Q So if the object you used to choke a human being with is sufficiently small and sufficiently soft, you can choke him without leaving any external marks of violence? A Yes, sir; choke him.

BY MR. OSBORNE:

Q In your opinion, was this man choked to death with the

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human hand? A Neither choked to death nor strangled with the human hand. I have endeavored to explain why I excluded the choking.

Q Assuming that the human arm was placed on the neck and that the two men fell on the floor, and the human arm was pressed with great violence up against the neck, in your opinion, could these lesions then be made so that the blood would infiltrate and cause strangulation? A Yes, sir. As a plain matter of fact, a pretty good, strong man by shoving up the lower jaw and shoving the head back might tear the whole structures right away from the roof of the mouth.

Q He might? A Yes, sir; I think it is quite possible; I don't see why it should not.

Q Now, Doctor, assuming a strangulation by the human hand, where two people are standing together, if there is any great violence used on the throat of the man by the other, assuming he is a reasonably strong man, would it leave the imprint of his fingers, even if it does not result in death? A It would all depend upon the amount of violence; any serious attempt to compress the throat is bound to leave them, especially where it is a death struggle. Get out of your head the strangulation business by the hand. He was not strangled.

Q Assuming that a man the size of this defendant, supposing he is in a struggle and grasps a man with violence

around the neck and throat with his hand, isn't he bound to leave finger marks on the neck?

MR. TRAIN: I object to that question as a reopening of the examination.

THE COURT: He has already said that. Once is sufficient.

MR. TRAIN: That is the reason I objected to it.

BY MR. TRAIN:

Q Doctor, you made use of the expression, did you not, by shoving up the head suddenly the muscles or vessels might be torn in such a way as to cause a choking? A I am inclined to think so.

Q Do you think it could? A -I will give you the facts, and you will be as good a judge as I am on the matter. We all know what the consistency of ordinary flesh is; human flesh does not differ much from mutton or beef. I think it may be a little obiter dicta upon my part now, but I think that an ordinary strong man suddenly shoving up the head in that fashion (indicating) in a struggle might possibly tear away the whole structure here from the upper portion of the mouth.

Q He could do that by choking? A Yes, sir.

Q And if that force was applied in such a way as not to cause any abrasion, you would not have any external marks of violence? A No, sir; you would not have external marks, but

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at the same time I would have to be a little cautious, because I imagine the same amount of force applied, as I said, would leave a mark there.

Q Suppose you simply used the palm of the hand on a man's chin, forcing his head back, couldn't you tear those vessels or muscles in such a way as to cause death by choking? A If you had no prominent chin bone at all you might press with the hand without, perhaps, leaving a mark on the chin, but I think any layman will understand that if you violently, very violently, throw or jerk the jaw up like that, I think it is extremely probable you would have ecchymosis right here, over the bony prominence of the chin.

Q That is merely saying that if you strike a man a blow in the chin it will ordinarily leave a mark, and my question is, Is it necessary in a case of choking by forcing the head back to apply the force in such a way as to leave a mark? A I am afraid that the force which would kill a man by choking was applied right there (indicating); that bone of the chin was on one side of the muscles, and the skin here, and the other side I think you would have a decided mark on the chin.

Q That is not the question. Would it not be possible to choke a man in that way and cause his death without leaving a mark? A I must confess I don't think so.

Q You don't think so? A I cannot speak positively.

Q Isn't it a question as to the character of the skin on the hand and the speed with which the force is applied, isn't it a question of degree? A It is not possible to answer that question categorically.

Q Answer it any way you choose? A The way it is answered is simply this: You can apply the force here (illustrating). Force applied directly upwards in that way can tear the tissues behind here without leaving any marks upon the skin, but in the case I adduced, that is the case of pushing the head backward with violence, force being applied at the point of the chin, I don't care how soft your hand is, you will get ecchymosis of the skin on the point of the chin.

Q In a strangle hold, so called incorrectly, wouldn't you expect to find an abrasion? A I would not, for the very simple reason that the force applied is applied back towards the spinal column, and the spinal column is too far behind to oppose resistance to the hand. In the case of the hand and the point of the chin they are almost in exact juxtaposition.

Q Suppose the force is applied far enough back so that the chin does not present any resistance? A I am afraid the question is not sufficiently clear for me to answer it.

Q If you can choke a man to death with the strangle hold, why can't you choke him to death with any soft substance, provided you don't use your fingers, in just the same way?

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A You cannot, for the simple reason that in choking from the outside we must draw a distinction between choking from the inside caused by food lodging in the gullet, and choking from outside where you compress the neck above the windpipe. Now, you have not your choice of positions in making the compression on the neck to produce choking abextro, that is from the outside, you ^{can} only do it by shoving the head up. The spinal column is too far behind, you would have to take his neck off altogether before you got your hand within reasonable distance of his spinal column. The only other place to get it was by shoving his head violently back, and in that case you have the bony prominence right away to oppose the hand.

Q You say the head could not be pressed back in that way without leaving an abrasion on the chin? A I am very much inclined to think so.

BY MR. OSBORNE:

Q You saw this cut on the face? A Yes, sir.

Q Could that have been produced by the human hand?

Objected to.

THE COURT: Objection sustained.

MR. OSBORNE: I respectfully ask the Court to let me ask that question. It is a matter of some importance.

THE COURT:

MR. OSBORNE: But witnesses for the People testified that a blow was struck John Stephan. Two witnesses came here and added to their testimony. I would to show that that would could not have been done by the human hand alone. You would have to have a weapon in your hand. They testified, as your Honor will remember, Nohra and Mafhouz--they added that to their testimony, they said he was struck in the face.

THE COURT: I don't think it is material at all.

Q Did you find any bruises on the man's face? A No, sir.

Q You did not? A No, sir.

Q A blow from the fist or the hand struck with sufficient violence would that leave a bruise? A In most cases.

THE COURT: I think you have gone far enough on that.

Q I will ask this question: Did you find an incised wound on the left side of the chin?

Objected to. Objection sustained.

MR. TRAIN: It is conceded. It is there.

BY THE FOURTH JUROR:

Q If the tongue was caught in the teeth as a man was catching, wouldn't that choke him without leaving a mark out there? A I don't quite catch that.

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Q (Question repeated.) A No, sir.

MR. OSBORNE: Tell the jury why.

A What I mean is that one of the ways of restoring respiration, in many cases where it is impeded, is pulling forward of the tongue. Pulling forward of the tongue the entrance of the air from behind. As a matter of fact we only breathe through the nose, a catching of the tongue in front would rather help the breathing.

DANIEL H. SMITH, a witness called on behalf of the defendant, being duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. OSBORNE:

Q Dr. Smith, where do you live? A 34 West 37th street.

Q Have you been a practicing physician for 33 years?

A For 33 years.

Q Graduated from the College of Physicians and Surgeons in New York City? A 1873.

Q And from Glasgow University in Scotland? A Seven years.

Q How many years have you been a police surgeon?

A Thirteen years.

Q During that time have you had many opportunities of seeing cases of assault? A I have.

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Q For fifteen years have you been the quiz master in the preparation of suits for final examination? A I have.

Q Have you participated in a great many autopsies?

A I have.

Q You are now a police surgeon, are you not? A Yes, sir, I am now.

Q Assuming that a man was strangled. Did you hear this hypothetical question read to Dr. Williams? A I did not; I have a cold and my hearing is not very good, and I did not hear anything. I heard occasional words, but I know absolutely nothing of the matter as read. I never heard it.

Q Assuming that a man was strangled, and that after death the tongue is found protruding and clenched between the teeth of the upper and lower jaw, and that the muscular tissues at the base of the tongue and the floor of the mouth near the hyoid bone, that is the bone to which the tongue is attached, were found contused, infiltrated with blood and swollen, and this condition was more marked on the left than on the right side, and that the left fold on the opening of the larynx was found oedematous, and the left lung was found bound down with adhesions, and the blood and contents of the lung were normal; that the left side of the heart was contracted and the right side was dilated, and the blood was fluid and dark; that there

were old adhesions between the liver and the diaphragm and between the spleen and the diaphragm; that the omentum and mesentery were adherent, and that the liver showed numerous old retractal scars upon the surface and was intensely congested and slightly cirrhotic, and the spleen was congested; that the kidneys were intensely congested and slightly enlarged; that mesentery lymph nodes, or lymph glands, as they are sometimes called, were found enlarged with numerous cheesy areas; also the peritoneal lymph nodes were found enlarged, so that the entire group presented a mass along the posterior wall of the abdomen.

Assuming that no marks were found except two stab wounds in the back, which, for the purposes of this question, are immaterial, one stab wound on the chin, which was three centimetres in length along the left side of the chin, gaped, one centimetre, two-fifths of an inch in width, parallel to the lip, and three centimetres in length and located two centimetres below the lower lip, and that there were numerous scars upon the neck, about ten in number, that varied in size from one to five centimetres; they were located along the lower margin of the lower jaw and along the angle of the lower jaw, and on each side of the sternum mastoid; these scars were the result of previous operations or inflammatory reactions with suppura-

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tion from tuberculous glands of the neck; these scars were old, in the median line of the neck, one-half the distance from the chin to the fold of the neck a scab wound was found which when taken off disclosed a granulated spot and a superficial sinus more recent than the others, and that there were no finger marks or finger nail marks on the neck, or anything of that sort; that there was no ecchymosis immediately under the gland;

Now, assuming that those were all the marks, in your opinion, would it be possible for this man to have been strangled by the use of a hand grasped on the throat?

THE COURT: Hand up the paper to the Doctor, and consider it as being taken on the record.

THE WITNESS: I have read this. I think I understand it.

Q Assuming that those facts are true. In your opinion, could you strangle a man or choke him with the hand without leaving marks? A Absolutely no.

Q You could not? A No, sir.

Q Now, explain, give your reasons for that? A Because to produce an approximation of two opposite sides of the windpipe would necessitate violence of the intervening tissues between the finger and the larynx or windpipe which would break some of the capillary vessels and produce extravasation of blood into the tissues, leaving discoloration or ecchymosis, as

it is called, the technical word is ecchymosis, the same as black and blue marks, as the result of contusion. That is an illustration of it; the same thing would be manifested wherever enough force is applied around the larynx to occlude entrance of air, no matter what the direction.

Q So that if it was done with the human hand it would leave finger marks? A Absolutely bound to.

Q Suppose a man is grasped violently by the throat?

A Suppose what?

Q Assuming that a man grasps another violently by the throat, doesn't that leave finger marks? A Yes, sir.

Q From the facts as stated to you in this case, as read by you, which consists of Dr. Schultze's remarks in his testimony in this matter, in your opinion was the man strangled with the human hand or choked with the hand? A Neither.

Q Neither strangled or choked with the human hand?

A No, sir.

Q Assuming that a man received two wounds which are described as follows: One transverse in length, gaping so that it was one-half a centimetre in width over the lower margin of the right seventh rib, six centimetres to the right of the spine, perforating the space between the seventh and eighth ribs; that the wound extended into the posterior part of the lower lobe of the right lung; that the length of the wound on

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the surface of the lung was one centimetre, and the width one-half a centimetre and the depth of the wound was one and one-half centimetres; that the lung post mortem, was found collapsed to about one-half its normal volume, and that the depth of the wound from the skin to the end of that part of the wound in the right lung was two and one-half inches, and that internal hemorrhage was impossible on account of the adhesion between the lung and the chest wall, and that no hemorrhage occurred about the lung, but simply in the area of the wound, in your opinion, could that wound have caused the death?

A Not within half an hour.

Q Could not have done it? A No, sir; it could not.

Q In your opinion, Doctor, could a man grasp another by the throat with sufficient violence to create a laceration internally without leaving finger marks? A Never.

Q It could not be done? A Never.

Q You read about those scars on the neck, didn't you?

A You mean the scars recorded in the question.

Q Would they, in any way, tend to obliterate marks of human fingers on the throat? A No, sir.

Q Is it possible for a man to die of strangulation or choking with the human hand without leaving scars? A No, sir; it is not.

Q Now, let me describe that wound, that cut on the face.

A wound was found on the face which was three centimetres in length, one and one-fifth inches long on the left side of the chin? A How is that?

Q Three centimetres, a third wound was found which was three centimetres in length on the face, one and one-fifth inches along the left side of the chin, gaping, one centimetre, and two-fifths of an inch in width; it was parallel to the lip and three centimetres in length and located two centimetres below the lower lip. This wound extended to the bone of the lower jaw and was described by Dr. Schultze as a stab wound. Do you understand me thoroughly? A Yes, sir; absolutely.

Q Could that wound have been inflicted by the human hand without any weapon in it? A No, sir.

Q Is that a wound which you would call an incised wound? A That is an incised wound, yes, sir.

CROSS EXAMINATION BY MR. TRAIN:

Q You say a man cannot be choked to death without leaving a mark on the side of his neck? A No, sir; I do not say that.

Q Do you say a man cannot be strangled to death by external violence without leaving a mark upon his neck? A No, sir; I did not say that.

Q It is a question of how the force is applied and what

the force is? A Yes, sir; exactly.

BY MR. OSBORNE:

Q You said it could not be done with the human hand?

A Yes, sir.

GEORGE HARRISON, a witness for the defendant,
being duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. OSBORNE:

Q Dr. Harrison, where did you graduate? A At the University of Virginia.

Q Graduated there in medicine? A Yes, sir; in medicine.

Q Now, state what you did after you graduated, I mean your practice as a physician, that is what I am talking about?

A I went to Philadelphia, and I was matriculant in the University of Pennsylvania and also in the Jefferson Medical School.

Q How long did you remain there? A I remained studying for,--during a good portion of the winter.

Q What is that? A I remained there a good portion of the session attending lectures and then I received an appointment at St. Joseph's Hospital.

Q Where? A Philadelphia.

Q How long did you stay there? A I stayed there about a year.

Q Then what did you do? A I went to St. Louis, Mis-

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souri, practicing medicine.

Q How long? A I was there about three years.

Q Then what did you do? A Then the Civil War broke out and I entered the Confederate Army.

Q What was your position there? A I was a surgeon in the Confederate Army.

Q How long? A My first appointment was that of Assistant Surgeon; I continued in that capacity for a portion of the year and then I was appointed full Surgeon, and continued till the close of the Civil War then as a Surgeon in the Confederate Army.

Q Then what did you do? A Then I remained with the regiment some little time, and then in 1868 I came to New York and received an appointment in the Woman's Hospital. I went through my term of service there, then I went into general practice in New York and have been practicing here ever since.

Q Ever been President of any medical society? A I was President of the New York County Medical Association; I was also President of the Medical Surgical Society, and also President of the Obstetrical Society.

Q How many years were you President of these respective societies?

MR. TRAIN: Objected to.

THE COURT: Objection sustained.

MR. OSBORNE: I want to show how he is regarded by his profession.

Q Doctor, you have seen many autopsies, haven't you?

A Yes, sir.

Q And a great many cases of wounds and assaults of all sorts, at times, haven't you? A Yes, sir, because my practice is--

THE COURT: He has not seen assaults.

THE WITNESS: I have seen the result of assaults.

Q Now, Doctor, in your opinion, is it possible for the human hand to choke or strangle a man to death, the instrument used being the human hand, without leaving marks? A I don't think it is possible at all; it is bound to leave some marks owing to the injuries produced in the soft tissues.

Q External marks, I mean? A Yes, sir; external marks would show.

Q Bound to do it? A Yes, sir; on account of the laceration of the subcutaneous tissues.

Q Where would those marks appear? A Appear on the neck corresponding to the outline of the fingers. You would see bluish or brownish spots.

Q Assuming that a man was strangled, and that after death the tongue was found protruding and clenched between the teeth of the upper and lower jaw, and that the muscular tissues at the base of the tongue and the floor of the mouth near the hyoid bone, that is the bone to which the tongue is attached, were found contused, and infiltrated with blood and swollen, that this condition was more marked on the left than on the right side, that the left fold on the opening of the larynx was found oedematous, and the left lung was found bound down with adhesions, and the blood and contents of the lung were normal; that the left side of the heart was contracted and the right side was dilated, and the blood was fluid and dark; that there were old adhesions between the liver and the diaphragm and between the spleen and the diaphragm; that the omentum and mesentery were adherent, and that the liver showed numerous old retractal scars on its surface, and was intensely congested and slightly cirrhotic and the spleen was congested, that the kidneys were intensely congested and slightly enlarged; that the mesentery lymph nodes or lymph glands, as they are sometimes called, were found enlarged with numerous cheesy areas; also the peritoneal lymph nodes were found enlarged, so that the entire group presented a mass along the posterior wall of the abdomen. Assuming that no marks were found except two stab wounds in the back which for the purposes of this question are immaterial, one stab wound on the chin which was three centimetres in length along the left

side of the chin, gaped, one centimetre, one-fifth of an inch in width parallel to the lip, and three centimetres in length and located two centimetres below the lower lip, and that there were numerous scars upon the neck, about ten in number, that varied in size from one to five centimetres; they were located along the lower margin of the lower jaw and along the angle of the lower jaw, and on each side of the sternum mastoid; these scars were the result of previous operations or inflammatory reactions with suppuration from tuberculous glands of the neck; these scars were old, in the median line of the neck, one-half the distance from the chin to the fold of the neck a stab wound was found which when taken off disclosed a granulated spot and a superficial sinus more recent than the others, and that there were no finger marks or finger nail marks on the neck, or anything of that sort; that there was no ecchymosis immediately under the skin. Now, assuming that these were all the marks, in your opinion, could that man have been choked or strangled by the use of the fingers or ~~the~~? A Absolutely not, in my opinion.

Q Now, do you think it would be possible to strangle a man without leaving a mark at all, doctor? A I think that is possible. That is done by the thugs of India.

Q Yes; that is done, is it not, by the use of some soft substance applied to the neck? A They use, I think, a silk handkerchief or something of the sort.

Q Well, it must be a soft substance? A Or flat band of some sort.

Q Well, it must be a soft substance applied to the neck?
A Some soft substance, yes.

Q If you should strike a man a sufficiently violent blow on the face, to carry his neck in any way, wouldn't it leave a bruise where you struck him? A Absolutely.

Q It would be bound to? A Yes.

BY MR. TRAIN:

Q Well, the result of most blows is a bruise? A Yes.

Q We all agree to that, I think. Now, doctor--

BY MR. OSBORNE: Mr. Train, I beg your pardon, I have one more question and then I am through.

MR. TRAIN: Mr. Osborne, if that is the one that my doctor says was a stab wound, I will concede it was a stab wound.

MR. OSBORNE: Exactly; and could not have been inflicted with the hand.

MR. TRAIN: Yes.

THE COURT: It is a waste of time to inquire about those wounds, those incised wounds. I do not apprehend that the District Attorney, as he states now, will make an issue upon those wounds.

MR. OSBORNE: Well, if that is conceded, I do not want to press it.

CROSS EXAMINATION BY MR. TRAIN:

Q Doctor, you answered a long hypothetical question of Mr. Osborne's, which began with the words, "Assuming that a man was strangled," and then it went on with its technical terms, and ended up with, "in your opinion, could the man have been strangled with the human hand?" Do you remember that question?

MR. OSBORNE: The one I read to you.

A Yes.

Q That was the long question he put to you, and you said no. That was your answer, wasn't it? A Yes.

Q Now, assuming that the man was strangled, which is admitted in the question, how do you suppose it was done?

MR. OSBORNE: I do not want a supposition. Do you think that is exactly right, your Honor?

MR. TRAIN: But I do, on cross-examination. On cross-examination, I am entitled to all he sought.

THE WITNESS: Well, I have just stated one way in which it is done.

Q You mean, by a thug, taking a hand-- A Oh, I think it is stated on authority, and they use a silk handkerchief, a soft substance of that sort.

Q Yes. Well, is that the only way that a man can be strangled without leaving a mark on the neck? A Certainly not. A man can be suffocated to death; asphyxiated.

Q Yes? A The result, of course, of this throttling is

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asphyxiation.

Q Yes? A The man died from asphyxiation.

Q Yes? A Now, a man can be asphyxiated by the method called "burking", where a man is thrown down and his murderer throws himself on his chest, so as to interfere with his respiration, and then closes his mouth and nose.

Q Well, that is suffocation? A That is suffocation.

Q Ordinarily called suffocation? A That is equivalent to-- that is not strangulation absolutely.

Q Now, assuming the case which Mr. Osborne read to you, and assuming, as it is conceded in this case, that this man was not asphyxiated in the ordinary sense, can you offer any explanation of how a man could be strangled without leaving any mark on his neck, assuming that he was not suffocated in the ordinary sense, and that none of the thugs of India executed him with a silken handkerchief. We start with the assumption that he was strangled, in Mr. Osborne's own words. Now, the question is how it was done. Can you offer any explanation of how a man can be strangled without leaving any mark upon his neck, except by the use of a silken cord or suffocation?

MR. OSBORNE: Not a silken cord.

MR. TRAIN: Well, a silken handkerchief or anything of that sort.

A Well, I believe that the X Japanese expert could give you a little information upon that topic.

Q Well, even our own wrestlers use what they call a strangle hold.

MR. OSBORNE: Our own what do you say?

MR. TRAIN: Our own wrestlers, not the Japanese.

Q And that does not leave any mark, does it?

MR. OSBORNE: You mean external marks, Mr. Train?

MR. TRAIN: External mark, oh, certainly.

THE WITNESS: Well, I don't know of my own knowledge.

I am not well informed on that point.

Q Well, you see, doctor, you were called to explain to us about the strangulation of this man, and you have testified that he could not have been strangled with the human hand. Now, Mr. Osborne says he was strangled, and what I want to get at from you is how he was strangled? A Well, I don't know that I am able to answer that question.

Q Well, how could he have been strangled? A Well, I don't know.

Q You don't know? A I don't know.

RE DIRECT EXAMINATION BY MR. OSBORNE:

Q Well, you have spoken of the Jiu Jitsu method with the strangle hold, where the soft part of the arm is pressed against the throat? A Yes.

Q That might do it, might it not, doctor? A Why, certainly.

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Q What? A That could do it.

RE CROSS EXAMINATION BY MR. TRAIN:

Q Now, is there anything else that could do it except the soft part of the arm in the Jiu Jitsu, that you know of, doctor?

A No, I don't know of any other way he could be strangled except by those methods that have been spoken of.

Q Well, how is that done, that particular way, the Jiu Jitsu method? Do you know how that is done? A No, I don't know.

Q You don't know how that is done? A No, I don't know how that is done.

Q Well, then, if you don't know how it is done, why you must admit that there are ways that a man could be strangled other than by the human hand, which do not leave any marks on the neck. You merely have not run across them. A You asked me do I admit that that is possible?

Q Yes. A I only know of it by reading of it, in these methods of--

Q Well, you have read of it.

MR. OSBORNE: He said he had read of it.

MR. TRAIN: Well, let him say it again.

MR. OSBORNE: I thought you did not want repetition.

BY MR. TRAIN:

Q You have read of it. Well, did you read how it was

done? A I correct myself on that point. I have heard of that method of the Japanese, but I have never read of it, that I recollect, but I have read of the murders, as I told, by the thugs of India.

BY MR. OSBORNE:

Q Well, doctor, as a matter of fact, if a soft substance about one and one half to two inches or more wide is pressed against the throat with sufficient violence to shut up the windpipe, that might produce strangulation without leaving marks; is that what you mean?

MR. TRAIN: I object to that question.

THE COURT: Objection sustained. That is not in issue in this case.

MR. OSBORNE: What do you say, your Honor?

THE COURT: That assumption is not in issue here at all.

MR. OSBORNE: I know it is not, if your Honor please.

HENRY P. LOOMIS, M.D., a witness called on behalf of the defendant, having been duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. OSBORNE:

Q Professor Loomis, what is your business? A Physician.

Q Sir? A Physician.

Q And what other things do you do besides actually practice medicine? A I am professor in Cornell University.

Q Sir? A I am a professor in Cornell University.

Q Yes, Cornell University. And how many years have you been a professor in Cornell University? A Ever since it started; ever since the medical school started about five years ago.

Q Ever since it started; and what is your chair there? A Professor of Therapeutics and Clinical Medicine.

Q Were you ever Professor of Pathology? A I was Professor of Pathology in the University of New York for ten years.

Q How long? A Ten years; ten or twelve years.

Q I didn't ask you when you graduated, but I will.

THE COURT: What is the use of going into this?

Q When did you graduate?

THE COURT: I am sure Mr. Train raises no question about Dr. Loomis' qualifications as an expert.

MR. TRAIN: Yes, he is a very expert and learned gentleman.

MR. OSBORNE: Well, that is conceded?

THE COURT: Yes.

BY MR. OSBORNE:

Q And you have testified a great many times, have you, doctor? A I have; yes, sir.

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Q And for the Prosecution? You were in the Patrick case, weren't you? A Yes, sir.

THE COURT: It does not matter which he testified for.

Q Now, Professor, in your opinion, is it possible to strangle or choke a man to death by means of the human hand without leaving marks, external marks? A It is impossible, in my opinion.

Q Impossible? A It is.

Q If you grasp a man by the throat with the human hand--

THE COURT: Mr. Osborne, what is the benefit to the defense of elaborating that position? Is it not clearly put forward by Dr. Loomis? Now, that is what the Prosecution claims, that this deceased was strangled by the hand of the defendant. Now, the doctor has testified that strangulation by the human hand without leaving marks is impossible. There is a clear issue here.

MR. OSBORNE: I thank your Honor.

THE COURT: Now, what is the use of going further? Why not keep it to its narrow limits?

MR. OSBORNE: I thank your Honor. That is exactly my intention.

THE COURT: What is the use of continuing with Dr. Loomis? He says it is impossible. Question, Mr. Train.

MR. OSBORNE: I do not believe I will ask any more questions of the doctor.

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CROSSEXAMINATION BY MR. TRAIN:

Q Dr. Loomis, assuming that a man was strangled, can you suggest how he could be strangled without leaving external marks?

MR. OSBORNE: Objected to.

THE COURT: overruled.

Q Without leaving external marks on his neck? A I think a man could be strangled by a soft and large mass applied with a good deal of force to the throat.

Q Yes, anything which would tear the lesions and passages of the neck in such a way as to flood the throat with blood.

MR. OSBORNE: Objected to. That is not what the doctor said. He said with a large and soft mass applied to the throat.

THE WITNESS: You might take a blanket, roll up a big blanket and put it around a man's neck, and forcibly bring the ends together at the back, and I think it would strangle him.

Q Now, why would that cause his death? Why would that cause him to choke to death? A Shutting off the air.

Q Well, that ultimately, yes, but directly? A It might do it without any internal injury. It might be accompanied by a good deal of internal injury.

Q In other words, a man could be strangled by the compression of the windpipe with the human fingers; there is no doubt

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about that? A Yes, he could.

Q But could he also choke to death by means of external violence causing some sort of a lesion in the neck, flooding the throat with blood and choking him to death; that is perfectly clear, isn't it? A He could, yes.

Q Well, isn't that your understanding of how this defendant came to his death? A I don't think I quite understand your question.

Q Well, I will withdraw that question. Supposing force were applied to the neck, of such a character as to tear the vessels and muscles of the neck at the base of the mouth, could not the throat become so charged with blood as to cause the man to choke to death? A They could; yes, sir.

Q And it would be a question of how that force was applied as to whether or not any external marks were left; isn't that correct? A Yes.

RE DIRECT EXAMINATION BY MR. OSBORNE:

Q But if it is applied by the human hand, I understand you to say it would invariably leave a mark? A That is absolute. There is no question in my mind that it could not be applied by the human hand without leaving external marks.

RE CROSS EXAMINATION BY MR. TRAIN:

Q When you say the human hand, what do you mean,

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Dr. Loomis? A I mean the hand.

Q Do you mean the hands or do you mean the fingers?
Isn't there a great difference? A I don't know how you could
apply the hands without the fingers.

Q Didn't you mean, in answer to Mr. Osborne's question,
and based on your previous conversation with him and information
about the case--

MR. OSBORNE: I object to that, if your Honor please.

Q Didn't you answer that question, having in mind the
gripping of the windpipe by the fingers of the human hand?

A I don't know how a man could apply a hand to a man's throat
without the fingers.

Q But answer my question, please. When you answered that
question, didn't you have in mind the gripping of the windpipe
by the human hand? A I did; yes, sir.

Q That is, you do not see, you say, how the human hand could
be applied. If you will come around at the conclusion of this
case and hear my summing up to the jury, you will see it clearly
elucidated.

BY MR. OSBORNE:

Q Now, doctor, when you speak of the human windpipe,
I assume that you mean that the man was grasped by the throat;
do you understand me? A Yes, sir, I do.

Q Of that the human hand was applied to the throat. In
your opinion, could that be done so as to choke or strangle a man

without leaving a mark? A It could not.

Q How? A Absolutely could not, sir.

GEORGE A. MERRILL, M. D., a witness called
on behalf of the defendant, having been duly sworn,
testified as follows:

DIRECT EXAMINATION BY MR. OSBORNE:

Q Dr. Merrill, what is your business? A Practitioner of
medicine and surgery.

Q Whereabouts? A Hudson street Hospital?

Q Hudson Street Hospital; is that right? A Yes, sir.

Q And how long have you been a physician there? A Fifteen
months; a little over.

Q Fifteen months? A Yes, sir.

Q Where did you graduate? A College of Physicians and
Surgeons, New York.

Q In New York County? A Yes.

Q New York City? A Yes, sir.

Q And then you went to the hospital, did you? A Yes, sir.

Q You have had many cases at the hospital, haven't you?

A Quite a number, sir.

Q Was Elias Zreik brought to the hospital on the night of
the 31st of January, 1906? A He was brought there. I don't
remember the date exactly, sir.

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Q Well, he was brought there? A Yes.

Q It was about that date, wasn't it? A It was sometime in the latter part of January or first of February, as near as I can remember.

Q Yes. Did you examine him? A Yes, sir.

Q Did you find a pistol shot wound or shot wound?

A I found a wound over the heart which, in my opinion, was a pistol shot-- shot wound; yes, sir.

Q A shot wound. You examined it carefully, did you?

A Yes, sir.

Q State your reasons for testifying that it was a shot wound? A Why, I thought it was a pistol shot wound.

Q Yes? A Well, when I found the man he was in the Second Precinct Station House, sitting down, and had the undershirt on that-- had an undershirt on.

Q Yes? A And there was a small area of blood, about an inch square, over this region of his body (indicating).

Q Yes? A In the middle of which was a small round hole.

Q Yes? A On taking this shirt off, underneath there was a small round hole, and a very little-- at least, no blood on the skin.

Q Yes? A And when I took him to the hospital, I put a probe in this wound, which extended about three-quarters of an inch directly in.

Q Directly in? A Directly in. After that, the probe

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would not follow any direction; and I further looked for what I thought was the bullet, by incising the wound and putting my finger in there to a considerable distance; and finally decided that if the bullet were in there it would not do him any harm; so I sewed him up.

Q Now, why did you say it was a bullet wound, I asked you?

A Because it was perfectly round, and the edges of it were not incised at all, and there was very little bleeding.

Q Yes? A And from those symptoms I concluded, and from the history which I always take into consideration--

Q Well, never mind the history. A I considered-- well, that helped me in my diagnosis of a bullet wound.

MR. OSBORNE: Mr. Train, will you concede it was a bullet wound?

MR. TRAIN: Why, of course, I wont concede that.

MR. OSBORNE: Well, then, we will have to prove it.

CROSS EXAMINATION BY MR. TRAIN:

Q Now, basing your opinion entirely on your own observations and not on the history of the wound, what do you say it was that caused the wound? A A bullet.

Q A bullet. You did not find any bullet? A No, sir.

Q Well, now, what about the wound led you to be so sure it was a bullet wound, if you did not find the bullet? A Well, the only reason I thought it was a bullet wound was that it was

perfectly round, and it bled very little, and it looked very much like fifty or more bullet wounds that I had previously had seen. That was all I had to make my diagnosis on.

Q Well, there was nothing particular about it excepting the shape? A Excepting the shape and it bled very little, and there were no incisive edges, as would be made by a sharp instrument, for instance.

Q Well, suppose something perfectly round, a dagger or something of that sort were used? A Well, a dagger usually has a sharp point, as I take it.

Q Well, suppose it were round like a skewer? A Well, in that case, I think there would be considerable bleeding; when the instrument was withdrawn, a stream of blood would flow out, in most cases.

Q Did you notice anything about the clothing which led you to think it was a bullet wound? A The mark on the shirt.

Q I mean, you didn't find any powder marks? A I saw no powder marks.

BY MR. OSBORNE:

Q Well, there was something about the clothes that made you think it was a bullet wound? A The round spot of blood surrounding the round hole in the shirt.

BY MR. TRAIN:

Q Have you ever probed for a bullet and not found it?

A Yes, sir.

Q How many times? A I can't remember exactly.

Q How many times have you probed for a bullet? A Oh, more than a dozen.

Q A dozen times? A Yes.

Q Out of the dozen times, how many times have you failed to find that positive evidence that a wound is a bullet wound, a bullet itself? A I don't remember; I can't say.

Q Well, any time? A Any time?

Q Are you sure you have ever had a case where you have probed for a bullet and not found it? A And not found it?

Q Except this one? A And not found it?

Q And not found it, sir? A Yes, sir.

Q Out of the dozen cases that you have had, in how many have you failed to find the bullet? A I said I don't remember.

Q If you don't remember, are you sure you have had any?

A I remember one case distinctly; yes, sir.

Q Besides this one? A Yes.

Q Well, you ordinarily find the bullet, don't you?

A Can't say; it all depends. The bullet might go through, and in that case you wouldn't find it.

Q I mean to say if the bullet does not go through.

A I haven't seen enough of these cases to say absolutely. In my opinion, it is a toss up whether you find it or whether you don't find it. The chances are about equal.

Q Do you think it is a toss up whether this was a bullet

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wound or a knife wound? A In my opinion this was a bullet wound and I have told you why. My experience has not been large enough to say anything more.

RE DIRECT EXAMINATION BY MR. OSBORNE:

Q Well, it is quite common in bullet wounds not to find the bullet, isn't it? A I think I have answered that, sir.

Q Well, that is a fact? A Yes, sir.

Q

HENRY L. HOOKER, M. D., a witness called on behalf of the Defendant, having been duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. OSBORNE:

Q What is your business? A I am a surgeon, sir.

Q A surgeon? A Yes, sir.

Q Were you at Bellevue Hospital in January and February, 1906? A Yes, sir.

Q Where did you graduate, doctor? A P. & S.

Q Sir? A Physicians and Surgeons.

Q And when? A '04.

Q Sir? A 1904.

Q And you were then connected with Bellevue Hospital, were you? A Yes, sir.

Q Did you attend this defendant Elias Zreik at Bellevue

Hospital? A Yes, sir.

Q How long was he there under your care? A I don't remember exactly, but I think it was about-- it was over a week, at least.

Q Over a week? A Yes, sir.

Q In what ward was he? A He was in the prison ward.

Q Yes; and what did you attend him for? A He had a gunshot wound in the chest, I believe.

Q Raise your voice? A He had, I believe, a gun shot wound.

Q A gun shot wound where? A Of the chest.

Q Did you examine the wound? A Yes, sir.

Q And did you form an opinion as to whether or not it was a bullet wound? A I believed it to be a bullet wound.

Q Sir? A I believed it to be a bullet wound.

Q Was that your opinion formed at the time, from your examination? A Yes, sir.

Q It was? A Yes, sir.

Q You treated him, you say, for over a week? A Yes, sir.

CROSS EXAMINATION BY MR. TRAIN:

Q Well, why did you believe it was a bullet wound?

A Well, because I have seen several bullet wounds, and this looked similar to it.

Q Wounds look as good deal alike, don't they? A Bullet

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wounds do; yes, sir.

Q Well, all wounds, small wounds look alike, don't they?

A A bullet wound is not a round hole like a well, is it?

A It may be, and may not be.

Q May not be; and the wound that is made by a dagger maybe one shape and may be another? A Well--

Q Didn't you form your opinion from the history of the case?

A No, sir.

Q Largely? A No, sir.

Q Didn't you take it into consideration at all? A I did.

Q Well, independently of that, you formed the opinion that it was a bullet wound? A I did.

EDWARD GLEASON, a witness called on behalf of the Defendant, having been duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. OSBORNE:

Q Officer Gleason, what precinct are you connected with?

A Second Precinct.

Q Were you connected with the Second Precinct on the 31st of January, 1906? A Yes, sir.

Q And in February, 1906,? A Yes, sir.

Q Did you arrest David Madowar?

Objected to; objection sustained.

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Q Well, did you go with David Madowar before Zreik in the hospital?

MR. TRAIN: Objected to. I withdraw the objection.

Q Did you? A Yes, sir.

Q You took him there, did you? A I took Mr. Madowar there.

Q Did you have a talk with Madowar? A Yes, sir.

Q Wasn't the date February 1st that you went there?

A February 1st.

Q Yes, 1906, in the morning? A In the morning.

Q Did Madowar say to you that George and Elias came into the restaurant and began shooting, and that when he, Madowar, turned around, the man was dead?

MR. TRAIN: Wait a moment. If the foundation has been laid for it, there is no objection.

MR. OSBORNE: I laid the foundation when Madowar was on the stand.

THE COURT: You may answer the question, Officer.

BY MR. OSBORNE:

Q Answer the question. A Ask the question again. I didn't hear it.

Q Did Madowar say to you that George and Elias came into the restaurant and began shooting, and that when he looked around the man was dead? A Not exactly; he didn't say the man was dead, no.

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Q Well, tell us exactly what he said? A He said that when the shooting commenced, a minute after, when he turned around, there was a man lying there on the floor.

Q He said that when he turned around the man was lying on the floor? A Yes, sir.

Q Did he say that Elias Zreik and George came in and began shooting? A So I understood, yes.

Q Did he say anything about stabbing or choking? A Didn't hear of it.

CROSS EXAMINATION BY MR. TRAIN:

Q Now, Gleason, did you have any difficulty at all in understanding Madowar? A Well, quite a little. He does not speak English fluently, but I could understand.

Q You had quite a little difficulty? A Well, to some of his words.

Q Now, when you answered Mr. Osborne's question the first time, you said that Madowar said that after the shooting commenced he looked and saw a man lying on the floor? A Not dead, no; he didn't use that word.

Q Listen to me. You said that after the shooting commenced he said he saw the man on the floor. A After the shooting, the man was laying on the floor.

Q After the shooting, the man was lying on the floor?
A That is it.

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Q Now, the important part of the question is, did he say whether George did the shooting or Elias did the shooting, or can you tell which he said? A He said they both commenced shooting; he didn't say either one.

Q Both commenced shooting? A Both.

Q You are very sure of that? A Pretty positive; Yes.

Q pretty positive? A Yes, sir.

Q Now, what part of his statement did you have difficulty with? A Well, in most all the way he speaks.

Q You had difficulty with most all of it? A Trying to draw him all out, just what he was trying to say.

Q Now, have you any doubt in your mind as to who he said did the shooting, or whether he named anybody as doing the shooting? A He named the both Zreiks.

Q What did he say? A He said that they came in the room and started to fire and shout at the same time.

Q Yes? A And after the excitement was over that this man was laying on the floor.

Q Now, did he mention the two Zreiks by name? A I believe he says George and Mike.

Q George and Mike? A I think that is it.

Q Now, can't you remember enough of this conversation to give us the whole of it in his own words, just the way he said it? A Just the way he said it was this:--

MR. OSBORNE: Raise your voice, Gleason, so all the

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jury can hear you.

A (Continuing) That he was sitting up there reading--
BY MR. TRAIN:

Q Now, use the words as he used them. You are Madowar for the time being. Now, you tell us what he said in the hospital in front of this defendant. A In the hospital he didn't say that.

Q Well, now, the question asked you was what did he say in the hospital in front of the defendant?

MR. OSBORNE: No, no, I did not ask him that. I asked for Madowar's conversation with the officer, on the way to the hospital or from it, or in the hospital, I don't care which.

BY MR. TRAIN:

Q Now, tell us in his words what he did say, if you can swear positively to that? A He was trying to explain to me how the shooting occurred, that they were all there at the supper table there when the two Zraike came in and commenced shooting, and after the shooting this man was laying there.

Q Now, that is all he said? A That is all. That was not in the hospital.

Q I don't care where it was. Where was it? A This was on the way to the hospital.

Q Now, was he excited at all? A Well, that I couldn't say. They are mostly all excitable there, that kind of people.

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more or less.

Q Was there a big crowd around? A At this time?

Q Yes? A That he was speaking to me?

Q Yes. A Why, no.

Q He was alone with you? A He was in the car with me.

Q In the car, and he was giving you an account of it, and although you had some little difficulty, that is what you gathered from what he said? A That is what I gathered, yes.

Q And you say that he didn't say the man was dead?

A No; didn't mention anything about his being dead.

Q What did he say? A Just said he was lying there.

DANIEL O'SULLIVAN, recalled as a witness for the defense.

DIRECT EXAMINATION BY MR. OSBORNE:

Q Officer O'Sullivan, did you go upstairs with this witness Hassoun? A No, sir. Hassoun was upstairs when I got to the head of the stairs.

Q You had some talk with him, did you? A Yes, sir.

Q Did he tell you that the two Zreiks came in and began to shoot up the place? A Yes, sir.

Q Both of them? A Yes, sir.

Q How did Hassoun describe it? Go on; tell the jury.

A Well, he didn't describe it any better than that they came

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in there and started shooting.

Q yes; that is George and Elias? A Yes, sir.

Q Came in and started shooting? A Yes, sir.

Q Where was it that Hassoun told you that? A He told me that on the night of the murder.

Q What time of night was it he told you? A Right after the thing occurred.

Q Yes. Did he mention the stabbing or not? A No, sir.

Q Nor the choking?

MR. TRAIN: Just a moment. I object to any details being supplied by counsel. Let him state what he did say.

Q Well, state all that took place between you and Hassoun?

A Well, Hassoun didn't have much to say to me that night. He said that the prisoner-- one of them went downstairs--

Q Yes? A And he told me they came in and started to shoot the place up.

Q Started to shoot the place up, both of them? A Yes, sir.

Q By the way, was Gulgoul present at this time? A Yes, sir.

Q When he said that? A He was there. I don't know whether he was present at the time he said it, but I know he was in the room, in the hallways.

CROSS EXAMINATION BY MR. TRAIN:

Q Now, O'Sullivan, when was this time that you are speaking

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about? A After I went into the building first; immediately after I got into the building.

Q Well, I forget now who you arrested? Whom did you arrest

A George Zreik.

Q You arrested George? A Yes, sir.

Q Now, as soon as you got into the building-- A Yes, sir.

Q Hassoun made this statement? A No, sir; in the hallway outside the door.

Q And before you got in there? A Yes. He didn't tell me then that the Zreiks did any shooting.

Q When did he tell you? A Upstairs when I arrested George Zreik.

Q When you arrested George Zreik upstairs? A Yes.

Q In this Madjalain woman's room? A Yes.

Q He told you about the Zreiks shooting up the place?

A Yes, sir.

Q You are the officer, aren't you, that testified there was such a lot of people hollering and yelling there? A Yes, sir.

Q Raising Ned generally? A Yes, sir.

Q And you went upstairs and started down again and then went up again? A Yes, sir.

Q And two or three fellows went along with you? A Yes, sir.

Q And you opened the door in the room? and there was George

Zreik? A Yes, sir.

Q And you say at that time, Hassoun told you that two men came in and started to shoot up the place, and this was one of them? A Yes, sir.

Q And you arrested him? A Yes, sir.

Q Now, in point of fact, all the time you were going up the stairs, and while you were in the room, and while you were coming down, there was a big crowd of Syrians yelling and shrieking and hollering? A Yes, sir.

Q And when you took the defendant George Zreik downstairs, you had to use your night stick to keep the crowd from lynching him? A Yes, sir.

MR. OSBORNE: I ask to have that question and answer stricken out.

THE COURT: Strike it out.

MR. OSBORNE: And I also ask that the jury be instructed to disregard it.

THE COURT: Yes.

RE DIRECT EXAMINATION BY MR. OSBORNE:

Q Now, Officer O'Sullivan, did Hassoun tell you to search for a revolver? A Yes, sir.

Q Did he say a word about a knife? A No, sir; I don't think he did.

Q Now, is it not a fact that the first time you ever heard

of any stabbing or shooting in this case was after the Coroner's inquest?

MR. TRAIN: Just a moment. Objected to.

Q (Continuing) From any witness?

THE COURT: I sustain the objection.

JOHN J. MURPHY, recalled for the defense.

DIRECT EXAMINATION BY MR. OSBORNE:

Q Do you remember getting a piece of paper from Mohra that night? A Yes, sir.

Q And at that time did he tell you that he was a witness, that he himself was a witness? A He didn't say anything at all to me. I told him to write the names of the men that was in that room.

Q He didn't tell you thought that he was a witness? Just say yes or no. A No, sir.

Q He did not.

THE COURT: Did that witness Mohra tell the officer that he was a witness?

MR. OSBORNE: That is the question I asked him, and the officer said no. I asked Mohra if he told--

THE COURT: I know what you asked him. We have his testimony. Very well.

MR. OSBORNE: Now, will your Honor permit me to ask

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this question?

BY MR. OSBORNE:

Q Did Nohra tell you that he was a witness? (To the Court)

That is the only question I asked him.

MR. TRAIN: I object to the question, on the ground that my recollection of his testimony is that Nohra testified that he gave him his name and pointed it out on the paper.

MR. OSBORNE: Well, that is not my recollection.

We had better let the officer tell what happened between them.

THE COURT: Let the officer tell.

BY MR. OSBORNE:

Q You asked Nohra to write down the people that were in the room? A Yes, sir.

Q As witnesses? A Yes, sir.

Q And he did, and handed you the paper? A Yes, sir.

Q Now, when did you first learn that Nohra was a witness in this case?

MR. TRAIN: One moment. I object to that.

THE COURT: Sustained.

MR. OSBORNE: I take the advantage of an exception.

BY MR. OSBORNE:

Q Is it not a fact that Nohra's name was given to you as a witness by Mr. Faour on Friday?

Objected to. Objection sustained.

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Q Did you go to Mr. Faour's office on Friday, to see Mr. Faour?

Objected to. Objection sustained. Exception.

Q Did you see Mr. Nohra on Saturday? A The day of the funeral, Saturday; yes, sir.

Q And where did you see him? A In front of 81 Washington street.

Q Who was there at the time?

MR. TRAIN: I object to it as immaterial.

THE COURT: Sustained.

MR. OSBORNE: I take the benefit of an exception, if your Honor please. I do not think the Court has my position in this matter.

THE COURT: Put your next question, Mr. Osborne.

MR. OSBORNE: Then I apprehend the Court understand fully my position; yes, sir.

BY MR. OSBORNE:

Q At the time when you saw Nohra on Saturday, was Mahfouz there?

MR. TRAIN: I object to it.

THE COURT: Sustained.

MR. OSBORNE: I take the benefit of an exception.

Q I mean the witness Mahfouz.

MR. TRAIN: I object to that.

Q Were Mr. Faour, Mahfouz and Nohra ever on Washington street at the time on Saturday when you saw them?

Objected to.

Objection sustained.

Exception.

Q Now, did you go with Nohra and Mahfouz to the District Attorney's office?

Objected to.

Objection sustained.

Exception.

Q MR. OSBORNE: I think, your Honor, I have put my position clearly before you.

THE COURT: Yes, I understand it.

MR. OSBORNE: May I put this question, your Honor, respectfully:

BY MR. OSBORNE:

Q Is it not a fact that you understood that Nohra was a witness for Mr. Faour?

MR. TRAIN: Objected to.

Q (Continuing) In this case.

THE COURT: Objection sustained.

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MR. OSBORNE: I take an exception.

CROSS EXAMINATION BY MR. TRAIN:

Q Where did Nohra get this paper, do you know? A I don't know whether he got it out of his pocket or not.

Q What was going on in the room at the time you asked and received this paper? A The Doctor was in attendance, Dr. Spingarn.

Q Were there many Syrians in the room? A Yes, sir; a crowd of Syrians.

Q Were they crying out and hollering? A They were hollering, yes.

Q Was there great confusion there? A Yes, sir.

GEORGE SHERI, a witness for the defendant,
being duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. OSBORNE:

Q You speak English, do you? A Well, not extra.

Q What? A Pretty good.

Q Pretty good, yes, sir. Now, speak out loudly. What is your business? A Boss truckman.

Q Boss truckman? A Yes.

Q And where is your place of business? A Washington street.

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Q What is the street number? A 89 Washington street.

Q 89 Washington street? A Yes, sir.

Q And where do you live? A 79.

Q What? A No, 87.

Q 87 Washington street; and how many years have you had a place of business at 24 Washington street as a boss truckman?

A About three years.

Q How many years? A About three years.

Q Do you remember the night of January 31, 1906?

A Yes, sir, I remember.

Q That was the night John Stephan died? A Yes, sir.

Q On that night did you see George Nohra? A Yes, I seen him.

Q You did? A Yes, sir.

Q What time of night did you see him? A Between six and seven o'clock.

Q Between six and seven o'clock? A Yes, sir.

Q Where was he at that time? A He was outside the Clancy Stables, 56 Washington street.

Q What time did you put your horse in the barn that night? A About a quarter after six.

Q About a quarter after six. Well, now, just tell what occurred between you and Nohra at that time, not stating any words or conversations? A I was putting my horse in the sta-

ble, and I walked along the street, and I see George Nohra, and I ~~was~~ was passing the other sidewalk and George Nohra called me.

Q Which sidewalk were you passing along? A The West street side.

Q Which? A The left hand side.

Q What street were you on? A Washington street.

Q Were you on the same side that 81 is on or the other?

A No. Come from the other side.

Q On the other side, that is, George Nohra called you?

A Called me.

Q What did you do? A He said--

Q Never mind what he said. That is unimportant. I am quite willing that you should give all the conversation if Mr Train does not object. Well, state all that occurred, what he said and what he did? A He called me, "George, come here; I want to tell you something." I said to him, "What is it?" He said, "Habib, Habib here wants me to go and buy my truck again and go in business with him." I said, "All right." He said, "What do you think about it?" I said, "I don't know anything about it. I hope you do well." He says--he was talking about the horses, when I see people run and cry.

Q You saw a crowd running? A Crowd running, and we ran together.

Q You ran together? A Yes, sir.

Q Who ran with you? A Nohra and Habub Babub.

Q Where did the crowd run? A It ran through Washington street to 81.

Q To 81 Washington street? A Yes, and I was running, you know, we was running together, and I heard a fellow say, " Elias Ezriek is shot in a drugstore corner of Washington street," and I walked to Rector street and Wash. and saw the people outside the drugstore; and--

MR. TRAIN: Now, just a moment. This hasn't anything to do with Nohra.

MR. OSBORNE: Yes, it has. He testifies that Nohra was with him at the time.

Q Where was the crowd running, do you say? A Running through Washington street to 81.

Q To 81? A Yes. And me and Habub Babub and George Nohra were running together.

Q Yes? A And I had my driver with me that time.

Q Your brother? A My driver.

Q And who was your driver? A He is outside.

Q What is his name? A Mike Reagan.

Q Michael Reagan? A Yes, sir.

Q And he was with you at that time? A Yes, sir.

Q About what hour did this occur? A Well, when I got to 81, I heard Elias Ezriek is shot. I was go to Rector and

Wash.; I see people outside; I say, "What, is Elias Zriek shot?"

Q Outside of what? A The drugstore, corner of Rector and Wash.

Q Corner of Rector and Washington street? A Yes, sir.

Q And Michael Reagan was with you at that time? A Yes.

Q And where did Nohra go then? A I don't know. I didn't see him since. When I got to 81 I didn't see him no more.

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

Q About what time, what hour? A Between six and seven o'clock; ten minutes after I talk to him.

Q How? A After I left my stable, about twenty minutes.

Q Now, what time did you feed your horse? A Six o'clock.

Q Six o'clock? A I come out of the stable quarter after six.

Q You got out of your stable at a quarter after six?
A Yes.

Q And about what time was it you saw this crowd running towards 81 Washington street? A Another ten minutes, when I talked with Habub Babub.

Q Just the same time you were talking with Habub Babub and Nohra? A Yes, sir.

CROSS EXAMINATION BY MR. TRAIN:

Q What business did you say you are in? A Boss truckman.

Q How long have you been in that business? A Three years.

Q Three? A Yes.

Q How long hve you been in this country? A Been here, I think, ten years.

Q Ten. Before you were a truckman, what did you do for a living? A I was in Texas.

Q In Texas? A Yes, sir.

Q How long have you lived in New York? A Three years.

Q What were you doing out in Texas? A Me and my brother was in business together.

Q What kind of business? A I was in the freight business, and I was in notions and drygoods.

Q Whereabouts in Texas? A San Antonio, Texas.

Q Were you there the whole seven years? A I was in Cuba before.

Q In Cuba? AX Yes, sir.

Q Now, you have been in business for yourself?

A Yes, sir.

Q Ever since you have been in New York,? A Yes, sir.

Q Where do you live? A Where, in New York?

Q Now, where do you live now? A I live in 87 Washington street.

Q 87? A Yes, sir.

Q Have you always lived there? A Yes, sir.

Q Never lived anywhere else? A I lived in 89 before.

Q In 89 before what? A Before 87.

Q I know, but when did you change your address from 89 to 87? A I think about a year ago.

Q A year ago, that was before the shooting? A Yes, sir.

Q Now, you say you were standing in front of your stable, on the 31st of January? A My stable is 24, and George Nohra was standing with Habub Babub at 56 Washington street.

Q Now, how far is it in distance from 56 to 81 Washington street? A It is only a small block.

Q A small block? A Yes, sir.

Q And did you hear anything? A I hear people running, that is all, a big crowd, that is all I hear.

Q You saw a crowd? A Yes, sir.

Q And you say that all the time you saw this crowd, Nohra was with you? A Yes, sir.

Q What became of Nohra, do you know? A I know him in the face.

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Q What? A I know him in the face.

Q No. What became of him? When did he leave you?

A He leave me.

Q Yes? A We leave together in 56.

Q No. When did he leave where he was standing with you and go towards the building at 81? A He went with me.

Q What became of him? Where did he go? A He went with me.

Q To what place? A To 81.

Q Did he go upstairs? A I don't know; I couldn't tell you.

Q Well, did you go upstairs? A I had no business to go upstairs, seeing all the policemen going upstairs, what did I want to go for?

Q Where did you go? A I go to the corner of Rector and Wash.

Q Rector and Wash.? A Yes, sir.

Q Did you go to the drugstore? A I can't go inside.

Q What? A I stand outside, the same as anybody else.

Q How long did you stay there? A About ten minutes.

Q What did you do then? A I didn't do nothing.

Q Did you know anybody had been arrested? A No.

Q When did you find out anybody had been arrested?

A I don't know anything about it.

Q You say you don't know anything about it now? A No;
I don't see anybody arrested.

Q Well, was anybody arrested? A I don't know.

Q Do you know what you are doing here now? A I know
what I am doing.

Q What? A I know what I am doing.

Q What are you doing? Do you know what is going on in
this room, what is happening here? A I don't understand very
much English.

Q You don't understand very much. Do you understand the
nature of an oath? Do you know that you have sworn to tell the
truth? A That is what I see, you know. I can't say any more.

Q Yes. Well, do you understand that you are under oath
now? A I understand.

Q What did you do when you took the book in your hand?
Do you know that? A Yes, sir.

Q What did you do? A To say everything true.

Q Now, do you understand that Elias Zriek is being tried
for murder? A Yes, sir.

Q You know that? A Yes, sir.

Q When did you first find out that he was arrested?

A I found out the same night.

Q The same night? A Yes, sir.

Q What time in the night? A I seen him with the cop.

Q Oh, you saw him with the cop? A Yes, sir.

Q How soon after you saw the crowd running towards 81?

A For 81?

Q How soon did you see him with the cop? A I can't tell you how soon. Half an hour or an hour.

Q Where was he coming from? A Who?

Q Elias Zriek? A The drug store.

Q From the drug store? A Yes, sir.

Q Did the cop have hold of him? A Yes, sir.

Q Did you go along with the crowd? A No.

Q What did you do? A After ten minutes I was in the station house.

Q Oh, you went to the station house? A Yes, sir.

Q What did you go there for? A Go to see what has happened.

Q What did you go for? A For nothing; just go for a walk; that is all.

Q Yes, for nothing. Well, how long have you known Elias Zriek? A I know him in the face two years, I think.

Q Two years, by the face? A Yes, sir.

Q Did you ever speak to him in your life? A "Good morning"; say "Good morning"; that is all.

Q Did you ever talk with him about anything? A No, sir.

Q Never have a word with him? A No, sir.

Q Ever met him anywheres? A No, sir.

Q Do you know Dibbs? A I know him in the face.

Q You know Dibbs in the face. How long have you known

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him in the face? A A couple of years.

Q A couple of years. Did you ever talk to Dibbs?

A Yes. He gave me "Hello".

Q He gave you the "Hello". Is that all he gave you?

A Yes, sir.

Q That is all Dibbs gave you. Did he ever say he would give you anything else? A No, sir.

Q Did you ever meet Sabba? A No, sir.

Q Never met him; don't know him? A I know him in the face.

Q You know him in the face. How long have you known him in the face? A I know him about a year.

Q About a year. Well, did you ever talk to him? A Yes.

Q What about? A I was do his business one time.

Q What? A I was do his work one time.

Q You worked for him, did you? A Yes.

Q When did you work for Sabba? A Well, I did all his work a couple of weeks.

Q Worked for him a couple of weeks? A Yes, sir.

Q What did you do for him? A Shipping goods.

Q Shipping? A Yes, sir.

Q Where is his place of business? A 90 Washington Street.

Q Where? A 90 Washington Street.

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Q 90? A Yes, sir.

Q Has he got any brothers or cousins down there of the same name? A He has got a brother, yes.

Q Does his brother keep a restaurant? A No.

Q Do you know Sabba's restaurant? A Sabba's restaurant?

Q Yes; is it a restaurant or grocery store? A Grocery store.

Q Now, is that the brother, or is that the man you know that keeps that grocery store? A My brother?

Q No, does the man you know keep the grocery store?

A Yes, sir.

Q That is Sabba, is it? A Yes, sir.

Q That is the man for whom you worked? A Yes, sir.

Q Is that on the same block as 89 Washington Street?

A Yes, sir.

Q Right across the street, isn't it? A Yes, sir.

Q As you walked down the street, did you see Elias Zriek go into the grocery store? A No. I only see him coming out of the drug store, walking with the cop. That is all I see.

Q You only saw him coming out of the drug store with the cop? A Yes, sir.

M I C H A E L R E G A N, called as a witness on behalf of the defendant, being duly sworn, testified as follows:

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DIRECT EXAMINATION BY MR. OSBORNE:

Q Mr. Reagan, where were you born? A New York.

Q New York City? A Yes, sir.

Q And where do you live? A 357 Pacific Street,
Brooklyn.

Q How many years have you lived there? A Only one.

Q What? A One.

Q With whom do you reside? A Myself.

Q You live there alone? A Yes.

Q Whom do you work for? A George Sheheri, just now.

Q This same man that was on the stand? A Yes, sir.

Q How long have you worked for him? A I am working for
a year on and off.

Q A year on and off? A Yes.

Q What is your position? What kind of work do you do?

A Laborer.

Q Driving a truck, or what? A Yes, sir.

Q You drive a truck for him? A Yes, sir.

Q For George Sheheri? A For George Sheheri.

Q Do you recollect the night of this killing at 81
Washington Street? A Yes, sir.

Q Do you know George Nohra? A Yes, sir.

Q Where were you born, Mr. Regan? A 96 Washington
Street, New York City.

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Q You were born down there? A Yes, sir.

Q And you know the Syrian people? A Yes, sir.

Q Do you know George Nohra? A Yes, sir.

Q And he was once a truckman? A Yes, sir.

Q Now, did you see him on the night of the 31st of January, 1906? A Yes, sir.

Q Where did you see him? A Outside of 54 Washington Street.

Q Was that before the crowd ran toward 81 Washington Street? A Yes, sir.

Q What time of night was it? A It was about a quarter after six.

Q About a quarter after six? A Yes, sir.

Q Will you tell the jury in your own manner everything that happened?

Objected to; sustained.

THE WITNESS: I walked up to Washington Street--

Q Wait a moment. The Court says that is not exactly the proper way to go at it. Were you and Sheheri together?

A Yes, sir.

Q Where were you standing? A We were coming up Washington Street after leaving the stable.

Q After leaving the stable? A Putting our horse in the stable.

Q Yes. A And we come up through Washington Street, and there was two Syrians together, this George Nuhra, and Babub. Babub was standing at 54 Washington Street.

Q Yes. A And some one of the two of them, I couldn't say who it was, called George Sheheri over to them.

MR. TRAIN: Just a moment. I object to the conversation.

MR. OSBORNE: I don't care for the conversation.

THE COURT: There has been no conversation given so far. He has only testified to calling Sheheri over.

BY MR. OSBORNE:

Q Go on, Mr. Regan? A Me and George Sheheri was coming up through Washington Street, and some of these two Syrians called George across.

Q George across, ~~xx~~ from where to where? A From 51 Washington Street, over to 54.

Q Yes; go on? A And he comes across and I follows him over.

Q Yes. A Being that I been working for him on and off, I used to come up every night, and get paid, and of course he had no money with him at present, but he was coming from the stable, and he told me he would give it to me when he got up a little further. When those two Syrians called him across

he went over and I followed him over. I was waiting for my salary. And they were holding a conversation there among themselves in their own language; I didn't understand what they were talking about; after they were standing there a while, these Syrians and American people and everybody else, rushed through Washington Street, and they went after them, and I followed George up, looking for what was coming to me; and at 81 Washington Street the crowd stopped there, and I stood by, and one or two young fellows there was American, and I asked them what was the matter.

THE COURT: Do not state what was said.

BY MR. OSBORNE:

Q Did you see the policemen go in there? A Yes, there was two policemen ran upstairs.

Q Ran upstairs into 81 Washington Street? A Yes, sir.

Q Go on. What else happened? A I asked the young fellow that was standing by there, I said, "What seems to be the matter?"

THE COURT: No, no. You must not state any conversation.

BY MR. OSBORNE:

Q Go on and tell everything you did, Reagan; not what was said, but what you saw after that? A Well, I walked up

as far as Greenwich Street and come back again, and on the corner there was another crowd.

Q The corner of what? A The corner of Washington and Rector.

Q Yes; ~~that~~ is where the drug store is? A There is a drug store right on the corner.

Q Yes. A And there was some Syrian fellow in there by the name of Big Mike.

Q Yes; that is this man here, (indicating the defendant).

A Yes, that is the man.

Q He goes down in that section, or that Colony by the name of Big Mike? A Big Mike.

Q Yes. A He used to own a pool room; and somebody said it was Big Mike in there and he is shot.

Q Now, you don't mean a pool room in the sense of a place where they bet on horses. You mean by that a place where there are billiards and pool tables? A Yes, sir; billiard tables.

Q Now, go on. A Somebody said, "Big Mike is in there."

THE COURT: No. Do not state what somebody said.

THE WITNESS: Well, I seen Big Mike inside in the store, and of course then I met George Sheheri, and I went away with him, and he gave me my money

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that was coming to me, and I went home. That is all I know about it.

BY THE COURT:

Q That was all that you were interested in; your money?

A Yes, sir.

BY MR. OSBORNE:

Q And you got your money, didn't you? A Yes, sir; I did.

THE COURT: Is there any ~~thing~~ need of questioning this witness, Mr. Train?

MR. TRAIN: I want to ask just one question.

CROSS EXAMINATION BY MR. TRAIN:

Q Did you hear any pistol shot? A No, sir; I did not.

Q Didn't hear one? A No, sir.

BY MR. OSBORNE:

Q How far away were you, Mr. Regan? A I was right outside of 81 Washington Street.

Q But when you were with Sheheri before, when you first met him, how far were you away? A From Sheheri?

Q No, from 81 Washington Street? A I lost him in the crowd.

Q No; how far were you away from the door of 81 Washington Street? A Right outside the door.

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Q No; you were in front of 56 Washington Street when you and Sheheri and Mohra were together? A Yes, sir.

Q How far is that from 81 Washington Street? A Well, about a block.

Q About a block? A A short block.

The Court admonishes the jury in accordance with the Code of Criminal Procedure and orders an adjournment of this trial until tomorrow morning at 10.30 o'clock.

CASE # 599

New York, October 9th, 1906.

TRIAL RESUMED.

SELIM KURSHY, a witness called on behalf of the defendant, examined through an interpreter (Mr. Kaydou) testified as follows:

DIRECT EXAMINATION BY MR. OSBORNE:

- Q What is your name? A. Selim Kurshy.
- Q What is your business? A. Glass.
- Q What does he do in glass? A. Polish.
- Q Where does he live? A. 47 Atlantic Avenue, Brooklyn.
- Q Whom does he work for? A. Semon, Bache & Company.
- Q How long have you worked for Semon, Bache & Company? A. Three years.
- Q Do you know a man by the name of Joseph Mahfouz, a witness in this case? A. Yes, sir.
- Q Did you see him on the 31st -- the day that John Stephan died? A. Yes, sir.
- Q Where did you see him? A. At the barbershop.
- Q What time of day was it? A. About twenty minutes after six or half past six, something like that.
- Q Where was this barbershop? A. 81 Washington Street.
- Q Was this barbershop on the ground floor? A. Yes, sir.
- Q Do you know Sarkis Sardis' restaurant? A. Yes, sir; I

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heard of it.

Q Now, tell exactly what happened at that time when you saw Joseph Mahfouz there, the witness?

MR. TRAIN: I object to that question.

Q How long did Joseph Mahfouz stay there after you saw him?

A. About three or four or five minutes.

Q Tell the events that happened?

MR. TRAIN: I object to that as immaterial. I do not see how it is connected.

MR. OSBORNE: It is similar testimony to Regan's.

Regan's testimony was about Nohra, and this is about Mahfouz.

Q While you were in the barbershop with Mahfouz, did you hear any noise? A. Yes, sir.

Q What did you hear? A. I went to shave, and when I went to shave I heard the noise and hollering upstairs in the restaurant.

THE SECOND INTERPRETER: Everything is correct except "I found" instead of "I heard".

Q He found a noise? A. I heard.

Q Now, what kind of a noise was it that you heard? A. Swearing, every one calling each other names.

Q Did you leave the barbershop? A. I left it and I went upstairs. Then I went outside and I seen what is more.

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- Q More noise or more people; what? A. More hollering and more noise.
- Q Did you hear any pistol shots? A. Yes, sir.
- Q How many pistol shots did you hear? A. Two or three.
- Q Where from did you hear them? Where did they come from?
A. From upstairs.
- Q Upstairs? A. Yes, sir.
- Q Where was Mahfouz at the time you heard the pistol shots?
A. At the barber's chair.
- Q What is the name of the barber? A. Elias Daha.
- Q Tell everything you saw after you heard the pistol shot?
A. After I heard the shot, I said to Elias Daha, "I think there is a fight upstairs".
- Q Tell us what you saw and observed after you heard the pistol shots? A. I saw Elias Zereik was coming on the stairs; he had his hand on his chest and he said ----
- Q You were instructed not to translate any statement. He had his hand on his chest, is that right? Ask him where he was walking to? A. He was coming on the stairs.
- Q Did he come out of the stairs at 81 Washington Street? A. Yes, sir; he was coming down and went out.
- Q In which direction did he go? A. Towards Rector Street.
- Q Towards Rector Street? A. Yes, sir.
- Q When the pistol shots were fired, did you see the crowd rush

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into 81? A. Yes, sir; the crowd was running then, and after Elias went down I saw another man come down with a knife in his hand.

Q From 81 Washington Street? A. Yes, sir; from the same stairs.

Q In what direction did that man go? A. He had a knife and he was running toward Rector Street among a lot of wagons and I lost sight of him.

Q Among a lot of wagons you lost sight of him? A. Yes, sir.

Q That is what you mean? A. Yes, sir; because there was a lot of wagons.

Q How many minutes was it before you heard the pistol shots that you saw Mahfouz in the barbershop? A. About a minute.

Q About a minute? A. Yes, sir.

Q Now, what became of Mahfouz after you heard the pistol shots? A. I left him in the chair combing his hair.

Q What is that? A. I left him on the chair combing his hair.

Q Combing his hair? A. Yes, sir.

Q How long have you known Mahfouz?

THE SECOND INTERPRETER: The barber was combing his hair.

Q His hair was being combed anyhow? A. Yes, sir.

Q Now, ask him this other question: How long have you known

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Mahfouz? A. A long time, probably two and a half years or three years.)

Q How long have you known Elias Zereik? A. Since I came over to this country, about three years or three and a half.

Q Did he know the man who was running across toward Rector Street with the knife in his hand? A. Yes, sir.

Q Who was that? A. I know him, I don't know his name. I know he is working in Saba's, I used to go there and buy tobacco from Saba.

CROSS EXAMINATION BY MR. TRAIN:

Q Now, where do you come from? A. Damascus.

Q How long have you been here? A. Four years.

Q Four years? A. Yes, sir.

Q What is your business? A. In the glass business.

Q You have always been in glass? A. I worked about a year selling goods, and a carpenter.

Q Now, who had you worked for; give me the name of the man or the firm you worked for? A. (No answer)

Q What have you worked at since you have been in this country? A. A peddler.

Q What is his name? A. For myself.

Q Who was the first man you worked for? A. When I came over to this country?

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