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COURT OF GENERAL SESSIONS OF THE PEACE,
CITY AND COUNTY OF NEW YORK.

PART III.

-----X
THE PEOPLE,

vs.

OTTO LEFEVRE.
-----X

:
: Before:
:

: HON. WARREN W. FOSTER, J.,
:

: and a Jury.
:

Tried, New York, October 23, etc., 1906.

Indicted for Manslaughter in the First Degree.

Indictment filed May 28, 1906. ✓

A p p e a r a n c e s:

ASSISTANT DISTRICT ATTORNEYS JAMES R. RLY and WALTER B. HOWE,
For the People.

ROSENTHAL BROTHERS, for the Defense.

Frank S. Beard,

Official Stenographer.

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THE PEOPLE'S TESTIMONY.

New York, October 25, 1906.

TRIAL RESUMED.

LEOPOLD H. BERLINER, a witness called on behalf of the People, being duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. KELY:

Q Now what is your name? A Leopold H. Berliner.

Q Mr. Berliner, what is your business? A I am a physician

Q You are a professional man, are you? A Yes, sir.

Q And you are a physician, and are you connected with any public institution? A Interne to the Harlem Hospital.

Q And for how long a period have you been an interne at the Harlem Hospital? A Sixteen months.

Q And were you an interne at the Harlem Hospital on the 29th of April, 1906? A Yes, sir.

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Q And, as interne at the Harlem Hospital, is it among your duties to go on the ambulance? A Yes, sir.

Q And, on the night of the 28th, or the morning of the 29th of April, 1906, did you go on your ambulance anywhere?

A I did, sir.

Q And will you please tell me, if you recollect, where you went? A Well, I took it from the records. I have to remember from the records.

Q Well, I didn 't ask you how your memory was refreshed; did I? Those records are correct; aren't they? A Yes, absolutely.

Q And, when you refreshed your memory, you knew where you went? A Yes, sir .

Q And then please answer my questions, without telling me something that I am not asking you? A A little after one o'clock, I went on the ambulance to 1706 Park avenue, and arrived there, and found a man dead; and inquired for the --

Q Now, please. I am only asking you if you received an ambulance call, on that night, and went somewhere. That's all I have asked, up to now . Now you say that, in response to this call, you went to 1706 Park Avenue? A Yes, sir.

Q And what is that? An apartment house or what? A I believe it is a tenement house.

Q Well, it is a double tenement house there; isn't it?

A I think it is.

Q 1706 and 1708? A I don't remember that.

Q You don't remember whether it was the double number?
A I do not.

Q And when you got there -- what time did you arrive at the apartment house in question, or tenement house, as you call it?
A After 10:20 -- after 1:20 in the morning. I'll look that up, and see. Yes, after 1:20.

Q Now, when you got into this apartment house, or tenement house, as you call it, do you remember how many flights of stairs you went up?
A I do not.

Q Well, it wasn't on the ground floor?
A I don't think it was on the ground floor. I don't remember where it was.

Q How long have you been an ambulance surgeon, any way?

A I have been an ambulance surgeon over a year.

Q When you got up there, and when you saw this person, you say that the person was dead?
A Yes, sir.

Q And what was the sex of the person that you pronounced dead?
A It was in male clothing, and so I presume it was a male.

Q And did you feel of the person?
A Did I feel, did you say?
I don't understand you.

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Q (Question repeated). A Yes.

Q And did you feel over his heart? A I did.

Q Well, now, doctor, you are a doctor, aren 't you?

A Yes, sir.

Q You mean to tell me, if you feel over a person's heart, that you are not able to tell whether that person is a man or a woman? Isn 't it a fact that women -- that you know that women have larger breast developments than men?

A As a rule.

Q And you can't tell, you sitting there tell me that you are in doubt as to the sex of that person; do you? A I am not in very great doubt; no.

Q Well are you in any doubt as to the sex of the person that you then saw? A No, sir.

Q Then why don't you answer the question? Was he a man or a woman? A I think he was a man.

Q And don't you know whether he was a man? A Well there is only one way to tell the sex of a person, as far as I know.

Q I didn't ask you that? A I think he was a man.

Q Well don't you know that he was a man? A No.

Q Why not? A Because I didn 't examine his sexual organs.

Q How long were you there? A What do you mean?

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At the place?

Q Well that's what we are talking about; isn't it?

A About two minutes.

Q Are you admitted and licensed to practice? A I am, sir.

Q Outside of the Harlem Hospital? A According to the State Rules, I am not; according to the Bellevue and Allied rules, I am not.

Q According to what rules? A According to the State rules, I am allowed to practice anywhere in the State; but, being an interne in the Bellevue and Allied System, I can't practice outside.

Q Did you see anybody in the room where you saw this person, whose sex you are somewhat uncertain of? A Yes, sir.

Q Male or female? A Both.

Q Why, did you examine the sexual organs of any of the people there, so as to know whether they were male or female? A No, sir, I didn't.

Q Do you recollect seeing an officer there, on the morning in question? A I recollect that there was an officer there.

Q Well how do you know he was an officer? A Because I made a remark to him. I remember what remark I made to him, in that case.

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Q Was the defendant there? A I don't know the defendant.

Q This man here (indicating)? A I don't remember him.

Q Did you see him there? A I don't remember him.

MR. ELY: Bring in Taggart.

BY MR. ELY:

Q Do you see this man standing at the rail(indicating an officer in uniform)? A Yes.

Q Is he male or female? A I think he is a male.

Q And do you know what his business is? A I think I do.

Q What is it? A He is an officer.

Q How do you know he is an officer? A I know from his uniform.

Q But you have seen stage policemen in that uniform, haven't you? A Well I know, because I have seen this man before.

Q Oh, you have seen him before? A Yes, sir.

Q When did you see him? A I saw him several times.

Q When did you see him first? A I can't remember that.

Q About when was it? A Some time when I was on the ambulance, on one of the early calls; I don't know when.

Q Well how long have you been on the ambulance; you

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know that; don't you? A Well I've been on the ambulance, off and on, since August.

Q, Well, we are not talking of when you were off. You said it was when you were on? A Well, I don't know exactly when I did see him.

Q How long have you been going on your ambulance? A A year and a quarter.

Q or the Harlem Hospital's ambulance, rather? A A year and a quarter.

Q And do you remember when you first went on the ambulance? A About a year and a quarter ago.

Q Do you remember the date any more particularly? A I do not.

Q Well what month was it? A August.

Q August of what? A 1905.

Q Then, in August, 1905, you first went on the Harlem Hospital Ambulance; is that right? A Yes, I think so.

Q As ambulancesurgeon? A Yes, sir.

Q And how long after August, 1905, about how long after August, 1905, did you see this person standing there, who is now clothed in a uniform which resembles the uniform of the Police Department? A I don't know how long after.

Q About how long, I asked? A I don't know about.

Q Is your mind a blank on that subject? A Well, it is

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a blank on that subject.

Q Well when did you -- did you see this officer about April, 1906? A I don't know if I saw him in April.

Q What did you say your name was, again? A Leopold H. Berliner.

Q Well did you first see this officer, before you see him here, to-day? A Yesterday.

Q What time yesterday did you see him? A In the morning; a little earlier than this time, probably; around eleven o'clock.

Q Did you have any conversation with him? A I said, "How do you do," to him.

Q I didn't ask you, doctor, what your conversation was? A Yes.

Q If you will kindly answer my question, it would be so much easier. Before that, when did you see this officer?

A I don't remember when.

MR. ELY: Well, doctor, I think that's enough.

CROSS EXAMINATION BY MR. ROSENTHAL:

Q How much of an examination did you make of the deceased, doctor? A An examination to find out whether the man was living or dead. I examined his heart, felt his pulse, saw whether he was breathing; felt his eyes.

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Q Did you smell any liquor about him at that time?

MR. ELY: I object to that, as calling for a conclusion.

THE COURT: I will receive it, if connected.

A I didn 't smell his breath.

MR. ELY: Now, I have here a diagram, if your Honor please, which purports to be a diagram of the premises 1708 Park avenue, where this occurrence that has been referred to in the opening of my associate happened, on the morning of the 29th of April, 1906.

The special draughtsman who made it, Mr. Allen C. Brown, is no longer employed in the city, and he is out at Ozone Park; and I desire to introduce that now, rather than to delay by sending for this man. In fact, I sent for him yesterday, and he did not appear, and I would like to introduce it now. I will hand it to counsel, and they can state whatever objection they may have.

THE COURT: Very good, if it is consented to.

MR. ROSENTHAL: If your Honor please, in answer to that, I will say that I myself made a general survey of the rooms --

MR. ELY: I object to these remarks.

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MR. ROSENTHAL: And we found it entirely different. When I say entirely different, there was an ice-box here (indicating).

MR. ELY: I object to these remarks. Counsel has no right to testify.

THE COURT: No. There is but one question before the Court. Do you accept the diagram as correct, and consent to its being introduced in evidence?

MR. ROSENTHAL: I do not.

THE COURT: Then there is no more to be said about it. Call your next witness, Mr. Ely.

JOHN TAGGART, a witness called on behalf of the People, being duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. ELY:

Q Taggart, you are a married man, aren 't you? A Yes.

Q And you are an officer connected with the Municipal Police Court of the City of New York ? A Yes, sir.

Q And you are a patrolman? A Yes, sir.

Q How long have you been on the Police Force? A Six years.

Q Well, over five years, any way? A Yes, sir.

Q Well did you see that person sitting in the witness chair, when I called you in, and stood you up there, at the rail? A Yes, sir.

Q Had you ever seen that person before? A Yes, sir.

Q Do you remember the morning of the 29th of April, 1906? A Yes, sir.

Q Where, if anywhere, did you go in the morning of the 29th of April, 1906? A I was on patrol, that morning.

Q Now, don't give me a history of your life? A I went into the house No. 1708 Park Avenue.

Q And how many floors, if you recollect, did you go up in that house? A To the fourth floor.

Q Yes. Now, Taggart, look at that man sitting there (indicating the defendant). Do you see him? Did you ever see that man before? A Yes, sir.

Q When did you first see that man, to recollect him? A April 29th.

Q On the morning -- I withdraw that. I won't lead you. Now where did you first see that man? A In a room at 1708 Park avenue.

Q On the fourth floor? A Yes, sir.

Q And do you know who this man is now? A Yes, sir.

Q Who is he? A Otto Lefevre.

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Q He is the defendant in this case, is he? A Yes, sir.

Q Now, again referring to that person who was sitting in the chair there, when I called you up to the rail, whom you have seen, you say before -- A Yes, sir.

Q Did you see that person on the 29th of April, 1906?

A Yes, sir.

Q Where? A In 1708 Park avenue, fourth floor.

Q And what did you see that person do, if anything?

A I saw him examine an unconscious man, on the fourth floor of 1708 Park avenue.

Q And where was this person, whom you term an unconscious man? In a room, or in a hallway, or where? When I say hallway, I mean the public hallway, not a private hallway in an apartment. Was he in a room, or out in the hallway? A In a room.

Q Was anybody else in the room when this person, whom you saw in the chair there, examined an unconscious man, at 1708 Park Avenue, on the morning of April 29th, 1906?

A Yes, sir.

Q Now who were there, besides this person, whom I have directed your attention to, and the man whom you have pronounced as unconscious, and yourself? A There was the wife of the unconscious man, Mrs. Minnough, the wife of the defendant, Mrs. --

Q The what? A The wife of the defendant.

Q You say the wife of the defendant? Do you know whether they were married, of your own knowledge?

A No, sir.

Q Well you don't know anything about it, do you?

A No, sir.

Q There was Mrs. Minnough and another woman?

A Another woman.

Q And who else? A Officer Hartigan, of the 32nd Precinct.

Q And where was this man (indicating the defendant)?

A He was in the room, also.

Q Well, have you named him? A Otto Lefevre.

Q And it was then that you saw this -- do you know the name of the man that was sitting in ^{the} chair there, when I

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called you up to the rail, as a witness, sitting in the chair as a witness? A Yes, sir.

Q What's his name? A Dr. Berliner.

Q And where was the defendant when Dr. Berliner, as you say, examined this man, who was lying unconscious on the floor? A He was in the room.

Q And what was this room, any way? A It was known as the kitchen of the apartments.

Q Well, it was a kitchen? A Yes, sir.

Q Now stand up a minute. You see this gentleman (indicating Dr. Schultze)? A Yes, sir.

Q Do you know who he is? A No, sir.

Q Don't you know Dr. Schultze, of the Coroner's office?
A No, sir.

BY THE COURT:

Q Did you ever see him before? A I don't recall of ever seeing him.

Q You never saw him before, to the best of your recollection? A No, sir.

BY MR. ELY:

Q Now did you see this Michael J. Minnough after the -- or did you know or ascertain who the person was who, you say, was lying unconscious in the kitchen, on the fourth floor of 1708 Park Avenue, on the 29th of April, 1906? A Yes, sir.

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Q Who was it? A Michael J. Minnough.

Q Now, after you saw Michael J. Minnough, at those premises, on the morning in question, did you ever see his body again? A Yes, sir.

Q And where did you see it? A At the Morgue.

Q At the Morgue? A Yes, sir.

Q Where is the Morgue? A Foot of East 26th Street.

Q Well, where's that? A 26th Street and East River.

Q Yes; and where is 26th Street and East River?

A (No answer)

BY THE COURT:

Q In what county? A New York County, New York City.

BY MR. ELY:

Q It is in the City and County of New York?

A Yes, sir.

Q And you saw the body at the Morgue? A Yes, sir.

Q Is that at Bellevue Hospital? A Yes, sir.

Q Now, at or about the time that the body was there at the Morgue, was there anybody there, when you were by the body? A Yes, sir.

Q Who? A The keeper.

Q And what's his name? A I don't recall his name (searching in his pocket).

Q Well, get it out of your pocket or your head.

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A Hamilton is the name, Keeper Hamilton.

Q And did you say anything to Keeper Hamilton about the body? Yes or no. A Yes, sir.

Q And do you know, or did you see anybody perform, or about to perform, an autopsy upon that body? A No.

Q You didn't? A No.

MR. ELY: Well, you may step aside now, with the permission of the Court. I want to let Dr. Schultze go.

O T T O H. S C H U L T Z E, a witness called on behalf of the People, being duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. ELY:

Q You are a physician? A I am, sir; yes.

Q And, Doctor, how long have you been admitted and licensed to practice? A Since 1889.

Q And have you any official positions? Have you any individual office, or are you connected in any way with any official of the City of New York? A Yes; Coroner's Physician in the Borough of Manhattan.

Q And for how long a time have you been Coroner's Physician in the Borough of Manhattan? A Since 1892.

Q And were you before that a Coroner's Physician?

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A Yes, in the County of New York, during 1896 and 1897.

Q And you are a Professor at Cornell, Doctor, I believe?

A A lecturer.

Q And it is the -- A At the Cornell University Medical College.

Q And did you perform an autopsy upon a male cadaver, on or about the 29th of April, 1906? A On the 30th of April, I did.

Q On the 30th of April, you did? A Yes, sir.

Q And where did you perform this autopsy? A This autopsy was performed at the morgue, in the Borough of Manhattan, foot of East 26th Street.

Q Did you, at or after the time that you performed this autopsy upon this cadaver, ascertain the identity of the cadaver; yes or no? A Yes, indirectly.

Q And what was the name of the cadaver; who was he?

A Michael J. Minnough.

Q Now just describe what you did, when you performed this autopsy? A The autopsy was performed at 12, Noon, April 30th, 1906. I found a lacerated scalp wound over the left temporal ridge, in the anterior parietal region, about two inches, by half an inch. That is here (indicating).

There was a linear fracture of the skull, running from above backward, under the scalp wound, four inches long, through

the posterior part of the squamous part of the frontal, and the anterior part of the parietal bone; here and here (indicating).

A second fracture was found at the base of the skull, in the middle fossa. I can't point to that exactly, because it is at the base of the skull, but it would correspond to this level (indicating). That is, roughly speaking, mid way between the fore and aft. The base of the skull is divided into the middle, anterior and posterior fossi. This ran upward, in a complete diastasis of the coronal suture.

There was an extensive hemorrhage from this fracture into the frontal region of the scalp, here, (indicating). A hematoma, three inches in diameter, that is, a blood clot in the scalp, was found in the occipital region, that is, here (indicating).

There was a contusion on the upper anterior parietal cortex of the brain, and hemorrhage into the ventricles of the brain.

The lungs showed old adhesions. The heart and liver were negative; that is, no pathological change in them; and the kidneys showed chronic interstitial nephritis; and the gastro-intestinal tract showed nothing to note.

We have in this case, besides the contusion of the brain, a compound fracture of the skull, and a hematoma in the back

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of the skull; and, from the character of the fracture in the left middle fossa, which ran up and into a complete division of the frontal bone from the parietal bone, he had evidently a contusion there on the back of the skull.

So that there were two fractures; a lacerated scalp wound, and a compound fracture with it; that is, the vault of the cranium. Then there was evidently violence from the back of his skull, and hematoma here (indicating); and with the characteristic fracture running from the base and through the skull, evidently from this secondary violence, upon the posterior part of the head.

Q Now, did these fractures cause any depression in the skull, if you recollect, or don't you recollect? A There was an effect upon the brain.

Q Well tell me about that? A I have described that; I have already mentioned that.

Q I understand. But you described it in scientific terms, so that it didn't penetrate to my lay mind.

A There was a contusion right here, corresponding to the site of fracture.

Q Now, Doctor, after performing this autopsy, did you form an opinion as to the cause of death of Michael J. Minnough? A Yes, sir.

Q Now please state what the cause of death was, in your

opinion? A Compound fracture of the skull.

Q Now, Doctor, from your examination of the body of Michael J. Minnough, and from your observation of the wounds that you found on the head of the body of Michael J. Minnough, could you say -- did you form any opinion as to whether -- as to the method in which the said Michael J. Minnough received the injuries, whether from a blow, or a fall, or what? Did you form any opinion on that subject? A I could form an opinion, yes.

BY THE COURT:

Q Well, did you? A I did.

BY MR. ELY:

Q Well please tell me what opinion you formed?

A The character of the lacerated wound, and the linear wound here (indicating), and the linear fracture, would indicate violence at that point, on the vault of his skull (indicating). The hematoma over his occipital region, a blood clot in the scalp, over the back of his head, together with the other fracture that I have described, running through the base of the skull, was a second instance of violence, and from its character I should judge that to have been a fall upon the back of the head.

Q Yes. A And from the character of the other, that might either have been a blow or a fall; but, if it were a

fall, it would necessitate a man falling directly on the top and side of his head (illustrating), because that was right over his temporal ridge here (indicating). So that, in all probability, it was a blow; although, in coming to a conclusion of that kind, one has to be extremely careful. That is, technically, it would also be possible for a man to butt up against something flat, and strike that part of his head.

MR. ROSENTHAL: I move to strike out the latter part of the answer, as he makes an assumption that is not verified by any testimony here.

THE COURT: very well; strike it out.

BY MR. ELY:

Q Now, then, the cause of death, Doctor, was directly due to these fractures of the skull that you have just described? A Yes, sir.

Q And that is, the direct cause of the death of the deceased in this case, Michael J. Minnough? A Yes, sir.

CROSS EXAMINATION BY MR. ROSENTHAL:

Q How long was this man dead, Doctor, before you examined him?

MR. ELY: If you know.

A I don't know.

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BY MR. ROSENTHAL:

Q What is that? A I don't know.

Q How long can liquor stay in the body of a person, and you distinguish it, at the autopsy?

MR. ELY: I object. The reason of my objection is that it is too indefinite and vague. If the question is -- if the defendant's counsel desires to propound a question to the doctor as to whether or not, from an autopsy, he could discover if the deceased, at the time of his death, was under the influence of liquor, why I don't object to that.

THE COURT: But this is a preliminary question, leading to it, I presume.

MR. ELY: Well, but, in that shape I object to it, as too indefinite and vague.

THE COURT: we may answer, if he knows.

A The note on the gastro-intestinal tract was negative.

BY MR. ROSENTHAL:

Q What do you mean by that? A That it gave us no crucial information on which we could decide.

BY THE COURT:

Q Could you tell from your examination whether or not the man had been drinking, just prior to his death, Doctor?

A You might have smelled --

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Q No. Did you observe? A No, I did not.

BY MR. ROSENTHAL:

Q Isn't it customary for you to examine a person in an autopsy to find out what all the conditions are leading to his death? A Why, surely.

Q And isn't it customary for you to examine the stomach or the intestines of the person, also? A I did so.

Q And was there any indication of any liquor or alcohol in the body of that person?

MR. ELY: I object to that. That is incompetent, immaterial and irrelevant.

THE COURT: If you can say you may do so. I am receiving this, subject to a motion to strike out, unless connected. If you can answer that, Doctor, you may do so.

A I find, from my notes, the gastro-intestinal tract was negative; that is, it gave me no information whatever upon which I could base a conclusion as to the cause of the man's death, as far as that particular tract was concerned.

BY MR. ROSENTHAL:

Q And then the only record that you have of this autopsy is what you made on the Coroner's Inquest minutes; isn't it? A Certainly.

Q And, if it weren't for that, you couldn't recollect

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anything about the case? A Oh yes, I could. I have a very good memory as to my cases.

Q What is a compound fracture, Doctor? A A compound fracture is a fracture of the skull, connected with a wound through the external skin.

Q Is a compound fracture an external wound into the bone? A Yes; that ^{is} what I practically said.

Q I ask you again, is it an external wound into the bone?

MR. ELY: Objected to, as already answered.

THE COURT: Sustained. I think the jury fully understand that, now.

BY MR. ROSENTHAL:

Q Will you describe exactly, Doctor, just where the compound fracture was on the body of the deceased?

A I think I have already described it accurately.

Q Do so again. A Shall I do so again?

MR. ELY: Objected to.

THE COURT: No; it is not necessary to repeat it, Mr. Rosenthal. You have it in evidence once.

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J O H N T A G G A R T being recalled by the District Attorney to the witness-stand, testified as follows:

DIRECT EXAMINATION CONTINUED BY MR. ELY:

Q Now, on the night of the 29th of April, or, rather, on the morning of the 29th of April, 1906, what were you doing? A I was on patrol duty.

Q And what were your hours of patrol; what tour were you doing? A From 12, midnight, to 8 a.m.

Q And whereabouts? Were you in the 32nd Precinct then? A Yes, sir.

Q And you are there still? A Yes, sir.

Q Now, Taggart, where is the 32nd Precinct Police Station? A East 126th street, between Lexington and Third Avenues.

Q What number is it? A I believe, 148.

Q Then it is on the southerly side of the street? A Yes, sir.

Q Now, what was your post on the morning of the 29th of April, 1906? A Park Avenue, from 116th Street to 120th Street, half a block east and west of the avenue.

Q And was and is 1708 Park Avenue in the tour that you were doing, on the morning of the 29th of April, 1906? Does that include 1708 Park Avenue? A Yes, sir.

Q And then it was on your post? A Yes, sir.

Q Well, now, just before you went into the premises 1708 Park Avenue, where were you? A I was on the east side of Park Avenue, walking north, about the middle of the block between 119th and 120th Streets.

Q And between what streets is 1708 Park Avenue?

A Between 119th and 120th Streets.

Q And then you were walking north on the block?

A Yes, sir.

Q On which 1708 Park Avenue is located? A Yes, sir.

Q And were you on the same side or the opposite side of the street; that is, were you on the east or west side of the street? A I was on the east side.

Q Then you crossed over; did you? A Yes.

Q To go to 1708 Park Avenue? A Yes, sir.

Q That is on the west side, is it? A Yes, sir.

Q And, as you were walking up, did anybody say anything to you? What attracted your attention to the premises 1708 park Avenue, on the morning of the 29th of April, 1906?

A A citizen called me --

Q Now, now. A citizen. Don't give me any conversation, Taggart.. Answer this question categorically, yes or no. When you were walking up, between 119th and 120th Streets, on Park Avenue, on the morning in question, did a citizen say anything to you? A Yes.

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Q And, after some citizen said something to you, what did you do? A I crossed the avenue.

Q Well, go ahead. A Went into the house 1708 Park Avenue, fourth floor.

Q You went up three flights of stairs, then?

A Yes; three flights of stairs.

Q And, when you got up to the fourth floor, what did you do? A I knocked on the door.

Q Yes. A The door was opened. I went in.

Q Well, now, Officer, you remember the doctor, who was sitting there in the chair, when you were standing up here to be identified? A Yes, sir.

Q Dr. Berliner? A Yes, sir.

Q Was Berliner there when you arrived, or did he come afterwards? A He came after me.

Q Now, when he arrived -- when you arrived, you have already stated that the defendant was there, and Mrs. Minnough was there, and another woman was there, and a man lying on the floor? A Yes, sir.

MR. ELY: Lizzie Garry. Bring Lizzie Garry in.

BY MR. ELY:

Q Did you ever see this woman before (indicating)?

A Yes, sir.

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Q And when did you first see her, on the night in question? A On the night in question.

Q And is she one of the two women that you refer to as being in the premises 1708 Park Avenue, on the fourth floor, on the morning in question, when you arrived there?

A Yes, sir.

Q Well now, just describe, Taggart, what you saw when you got into this room, on the morning in question, this room being the room on the fourth floor of the premises 1708 Park Avenue, New York County? A I saw two women in the room.

Q Now, will you tell me something? I am asking you to describe what you saw, before I ask you for any conversations. Don't give any conversations now, but just tell me what you saw when you went into the room? A I saw three persons there. One man was laying -- was on the floor, in a sitting position, leaned up against the wall. There was a woman on her knees beside him, who, I learned afterwards, was his wife. She asked me --

Q No, no, I am just asking you what you saw, when you went in, and you have told us that you saw a man on the floor, sitting up against the wall? A Yes, sir.

Q And a woman on her knees, whom you have since learned was the wife of the man that was on the floor? A Yes, sir.

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Q Now what was the name of the woman who was on her knees? A Mrs. Minnough.

Q And who was the man on the floor, up against the wall? A Michael Minnough.

Q And do you know what became of Michael Minnough? A His body was removed to the Morgue.

Q Well then he is dead; is he? A Yes, sir.

Q Was the defendant there, when the Doctor came? A Yes, sir.

Q And did the Doctor, in the presence of the defendant, say anything as to whether Michael J. Minnough was alive or dead? A He said he was dead.

Q Now, please. The answer is yes.

MR. ROSENTHAL: I move to strike out the answer.

MR. ELY: I consent to that.

THE COURT: Strike it out.

BY MR. ELY:

Q Now what did he say? A He said he was dead.

MR. ROSENTHAL: Objected to. I object to what the Doctor said. That's immaterial. The Doctor was here, and he is the best witness.

MR. ELY: Well, he has already testified, sir.

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BY THE COURT:

Q Did you observe the condition of his body sufficiently to know whether or not life was extinct?

A I don't know.

THE COURT: Well, I will strike out that the Doctor said, at the time. It is strictly incompetent. But I suppose you can show by this witness that he knew he was dead, if he knows anything about it.

BY MR. ELY:

Q Do you see this woman standing up here (indicating)?

A Yes, sir.

Q And do you know who she is? A Yes; she is Mrs. Minnough.

Q And is she the woman that you say you saw on her knees beside this man that was sitting up against the wall?

A Yes, sir.

Q In this room that you speak of, at 1708 Park Avenue, on the morning in question? A Yes, sir.

Q Well, now, do you know what was done with the body of this person who you say was on the floor, and who, you have before said, was unconscious, that morning?

A His body was removed to the Morgue.

Q Well, was it removed directly to the Morgue, or to

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the 32nd precinct, first? A Directly to the Morgue.

Q Directly to the Morgue? A Yes, sir.

Q And, when the body was taken out of 1708 Park Avenue, was it alive or dead? A Dead.

Q Now, you have told us of two of the people who were in the room, when you first arrived; that is, this unconscious man, and the woman on her knees, whom you have identified severally as Michael J. Minnough and Mrs. Minnough. Now who else was there? A Elizabeth Lefevre, the woman that I learned afterwards to be Elizabeth Lefevre.

Q Well, have you seen her to-day? A Yes, sir.

Q And did you hear me call for Lizzie Garry?

A Yes, sir.

Q And you saw her appear? A Yes, sir.

Q And do you know whether she is Elizabeth Lefevre or Elizabeth Garry? A I do not.

Q Well this woman that I called as Lizzie Garry was there, as well as Michael J. Minnough and Mrs. Minnough; was she? A Yes, sir.

Q And who else was there? A The defendant.

Q And the defendant you have already identified as the man sitting here (indicating)? A Yes, sir.

Q Now what, if anything, did you observe about the floor of the room in which you went, and in which you found the three

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living persons and this unconscious person? A There was blood on the floor.

Q And what did you observe about the blood on the floor?

A It appeared that it had been partly wiped off the floor.

Q And what was this room that you went into, Taggart?

A Kitchen.

Q Now have you told me all of the people that you saw there in that room, when you went in, in response to a communication that was made to you on your post? A Yes, sir.

Q I show you that article and ask you to look at it (indicating). Have you ever seen that before? A Yes, sir.

Q And when did you ~~first~~ see that article, first, of course? A On the morning of April 29th, 1906.

Q Where did you see it? A Fourth floor of 1708 Park Avenue.

Q In what room? A Kitchen.

Q And who were there in the room on the fourth floor of 1708 Park Avenue, in New York County, on the morning of the 29th of April, 1906, when you saw this article? The persons whom you have just described, the three persons and the unconscious man? A Yes, sir.

Q Very well. Now you identify this positively as being the article that you saw there, do you?

A Yes, sir.

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Q What is it? Do you know? A A flat iron, or smoothing iron, it might be called.

Q Well, we might let it go at flat iron. And was there any conversation touching that article, People's Exhibit 1 for Identification?

MR. ELY: I offer it now merely for Identification.

(It is marked People's Exhibit 1 for Identification).

A Yes, sir.

BY MR. ELY:

Q Now who was there when there was some conversation about this article, People's Exhibit 1 for Identification, in the kitchen of the fourth floor of 1708 Park avenue, on the morning of the 29th of April, 1906? A Otto Lefevre, Mrs. Minnough and Mrs. Garry.

Q And the unconscious man? A The unconscious man.

Q Now was this conversation about this article in the presence of the defendant? A Yes, sir.

Q And was it, the conversation, carried on in an audible tone of voice? A Yes, sir.

Q Well, was the conversation carried on in a tone of voice as loud as mine, as I am speaking now, should you say?

A Yes.

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Q And did the defendant take any part in the conversation? A Yes, sir.

Q Now, you may give it? A With the defendant?

Q Just give the whole conversation. I don't want anything suppressed, so long as the defendant was there, and that he took part in it. You know that, in a conversation, I don't have to talk all the time, in order to take part in the conversation. If I make a remark, now and then, after somebody else has talked, I am still taking a part in the conversation. Now, I want the whole conversation, and who spoke, what each said, during the time that the defendant was there, and took part in it. You understand that now?

A Mrs. Minnough told me that her husband was struck on the head with a flat iron; that the defendant, Otto Lefevre, struck her husband on the head with a flat iron.

Q Now, when she said that, was any reference made to People 's Exhibit 1 for Identification? A No.

Q Go ahead? A I asked the defendant if he had struck the man with the flat iron. He said, "No. " He said that he had a fight with the deceased, and that the deceased tried to strike him with a flat iron, and struck himself.

Q The defendant said that the deceased tried to strike him with a flat iron, but, instead, struck himself, the deceased?

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A Yes, sir.

Q All right? A I asked Mrs. Garry what she knew about the case. She said there was a fight between her husband and the deceased, and that the deceased tried to strike her husband with a flat iron, and struck himself.

Q Now is that all? A That's all.

Q Now, then, during the course of this conversation, was your attention directed to People 's Exhibit 1 for Identification? A No.

Q Well when was it? How did you get this here? Tell us about it? A A little while afterwards.

Q Well when was it? Go on and tell us. I don 't know, the jury don't know, you know; don't you? A Then, about five minutes afterwards, I asked for to see the flat iron.

Q Was the defendant there then? A Yes, sir.

Q All right then. Was that flat iron produced? A Yes, sir.

Q And was anything said, about that flat iron, and if so what? A It was identified as the one that was used in the fight between Mr. Otto Lefevre and --

Q Mr. who? A Otto Lefevre and Michael Minnough.

Q Well is that the one that it is alleged that the defendant struck the deceased with (indicating)? A Yes, sir.

Q In the presence of the defendant? A Yes, sir.

MR. ELY: I offer that in evidence, now, if your Honor please.

MR. ROSENTHAL: Let's see it, for a moment, please.

THE COURT: I will receive it in evidence.

It is marked People 's Exhibit 1 in evidence.

THE COURT: Of course it is identified by the witness without regard to the white tag on it, or either of the tags on it?

MR. ROSENTHAL: I understand, sir.

MR. ELY: And it is then understood that the exhibit is identified without regard to either of the tags? One of them is simply put on by the Property Clerk of the Chief Clerk 's office.

MR. ROSENTHAL: Yes.

BY MR. ELY:

Q What did you do, after People 's Exhibit 1 had been identified as the flat iron with which he had struck the deceased? What did you do? A I arrested the defendant.

Q What else? A Took him to the Station House, and he was locked up.

Q Now, did you take anybody else with you to the Station

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House? A Yes, sir.

Q Well who? A Mrs. Minnough and Mrs. Garry.

Q Now who was at the desk, when you went to the Station House ? A Sergeant Ward.

Q Did you take People 's Exhibit 1 with you? A Yes, sir.

Q And what did you do with People 's Exhibit 1, when you got to the Station House ? A I placed it on the desk, in front of the Sergeant.

Q Infront of Sergeant Ward? A Yes, sir.

MR. ELY: Just step up to the rail, Ward.

BY MR. ELY:

Q Did you see this man standing at the rail, with a yellow shield? A Yes, sir.

Q Do you know his name? A Yes, sir.

Q What is it? A Sergeant Wade.

Q And is he the man that you speak of, as being the Desk Sergeant, on the morning of the 29th of April, 1906? A Yes, sir.

Q And, after you got the defendant arraigned before the Sergeant, and the persons -- where were the persons that you have mentioned, Lizzie Garry and Mrs. Minnough? A They were in front of the Sergeant, also.

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Q Standing along there, in front of the desk, all three?

A Yes, sir.

Q Weren't they? A Yes, sir.

Q And then what, if anything, was said by the defendant?

A I don't remember to hear the defendant say anything.

Q Your hearing is good; is it? A Yes, sir.

Q His pedigree even wasn't asked? A Yes.

Q Then he stood mure? A His pedigree was taken.

Q Did he stand mute? A Yes, sir.

Q He didn't give his pedigree? A He gave his pedigree, yes.

Q Then he didn't stand mute; did he? A No, sir!

Q Well you understand English; don't you? A Yes.

Q Well, then, why, when I asked you if he said anything, did you say that he didn't say anything, if you now tell me, in the next breath, that he gave his pedigree? A I misunderstood the question.

Q Did the defendant say anything; is that right? A Yes, sir.

Q Well, you misunderstood my question? A Yes, sir.

Q Well, if you got confused over that question, I have no comment to make. Did you hear the Sergeant say anything to the defendant? A I heard him ask --

Q (Question repeated). A Yes.

Q And did you hear the defendant reply? A Yes, sir.

Q And what the conversation was you didn 't hear especially, you didn 't pay special attention to it; is that right?

A Yes, sir.

Q Now did you hear the -- now, going back to the room where Lizzie Garry and Mrs . Minnough and the defendant and the injured person, Michael J. Minnough, who subsequently died, and was taken out, were, what did you hear Lizzie Garry say, in the defendant's presence?

MR. ROSENTHAL: I object to that, on the ground that what Lizzie Garry said isn't binding on this defendant.

THE COURT: In the presence of the defendant?

MR. ELY: Sure.

MR. ROSENTHAL: It wasn 't at the time or --

THE COURT: I will overrule the stated objection, and receive it, cautioning the jury to receive it only for the purpose of showing them the conduct of the defendant, when it was said.

MR. ELY: Well the counsel was going to add something to the objection. He said something about the time. He might as well get his objection stated fully.

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THE COURT: Well, I did not hear it; he did not state that to me. I overrule the objection.

MR. ROSENTHAL: Exception.

A In the room, on the fourth floor.

Q On the morning of the 29th of April, 1906, in the room on the fourth floor of 1708 Park avenue? Now do you understand? A Yes. I heard her say that her husband -- that the defendant and the deceased had a fight; that the deceased tried to strike the defendant with a flat iron, and that he struck himself.

Q Now what else, if you recollect, did you hear, at that time, said by Lizzie Garry? A I don't recall anything else.

Q Your mind is -- you don't recall anything else, eh?

A No, sir.

Q Now, to refresh your recollection, didn't the woman Lizzie Garry say, in the presence of the defendant, "No, mother, you threw that iron at my husband, and you struck your own with it?"

MR. ROSENTHAL: Objected to, as leading.

THE COURT: He has the right to refresh his witness's recollection, under the decisions. Overruled.

MR. ROSENTHAL: Exception.

A Yes; but that didn't happen in the room -- in my pres-

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ence.

BY MR. ELY:

Q Where did it happen? A In the patrol wagon, on the way to the Station House.

Q Where was the defendant at the time that the -- that Lizzie Garry made that statement? A In the patrol wagon.

Q How near to Lizzie Garry? A He was sitting right opposite to her.

Q Well, now, the patrol wagon is -- when you sit opposite a person in the patrol wagon, your knees touch; don't they?

A Yes.

Q And she rode opposite the defendant? A Yes, sir.

Q And then, in the patrol wagon, she said, "No, mother, you threw that iron at my husband, and you struck your own with it"? Is that right? A Yes.

Q Now, Taggart, after you had stood there at the rail with the defendant and these two women, and there had been some conversation that you don't recollect, you say that the defendant was locked up? A Yes, sir.

Q Do you know anything more about the case, that I have not inquired into? A (No answer).

Q That occurred about that time? At that time, of course, is the time that he was locked up, on the morning of the 29th of April? A No.

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CROSS EXAMINATION BY MR. ROSENTHAL:

Q Was there anything else in the room, on the stove, when you got into that room, on that night, at 1708 Park avenue?

MR. ELY: Now, I object. There is no basis for the question, at all.

THE COURT: He may answer.

BY MR. ROSENTHAL:

Q Was there another flat iron in that room, officer?

A Yes.

Q Where is that flat iron? A I delivered it to the Coroner 's office.

Q Then you did leave another flat iron, in other words, two flat irons, in the Coroner 's Court?

MR. ELY: I object to that. It hasn't been shown that he did.

THE COURT: I will overrule the objection, because it is competent upon two theories that I see.

A Put the question again?

BY MR. ROSENTHAL:

Q (Question repeated). A Yes, sir.

THE COURT: Of course, the question is open to the objection that it isn't sufficiently definite;

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but I assume that you refer to two flat irons that were taken from the premises, at the time; but I have given you the benefit of that.

BY MR. ROSENTHAL:

Q Did you take a broom from that room? A No, sir.

Q Did you at any time see a broom taken to the station house, as evidence in this case? A No, sir.

MR. ELY: I object to that.

THE COURT: Sustained.

MR. ELY: Well, the answer is, "No, sir."

Anyhow, will you caution the witness not to answer, if your Honor please, when I object?

THE COURT: Yes. Do not answer when there is an objection, officer, and await my ruling on the objection.

BY MR. ROSENTHAL:

Q Now, officer, how do you identify this iron as the iron that struck the deceased? A I put my private mark on it.

Q Will you show me the private mark that you put on there?

A There is a mark on there, and there is one right there (indicating).

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Q How soon after you took this iron did you make the mark, for identification? A When I was bringing it to the court, in the morning.

Q With what instrument did you make that?

MR. ELY: I object.

MR. ROSENTHAL: Because there are two pieces filed out.

THE COURT: I sustain the objection.

A With a file.

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THE COURT: Now, I instruct you not to answer, in the face of an objection, until you receive my direction. I sustain the objection.

MR. ROSENTHAL: Exception.

BY MR. ROSENTHAL:

Q How do you know that that is the iron that struck the deceased, Officer?

MR. ELY: I object. He hasn't identified it other than as having received it as the one that did it. He wasn't there when the blow was struck. And the one that it was stated to him, in the presence of the defendant, was the iron itself; and he took it as such, and marked it as such. Now, the question consequently is incompetent, because he can't have any personal knowledge on that subject.

MR. ROSENTHAL: And he hasn't any personal knowledge.

THE COURT: It doesn't follow that he hasn't any personal knowledge. He may answer if he has.

A The question, please.

(The question is repeated by the stenographer)

A Mrs. Minnough told me so.

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MR. ROSENTHAL: I move to strike that out, if your Honor please. He says "them".

MR. ELY: He said nothing of the kind. He said, "Mrs. Minnough told me so".

THE COURT: It may stand. I heard it.

MR. ROSENTHAL: Exception.

BY MR. ROSENTHAL:

Q Where was the iron when you first walked into the room?

MR. ELY: I object to that. When he first saw it, is proper.

BY THE COURT:

Q If you know where the iron was, you may answer the question; this calls for your personal knowledge?

A I don't know where it was, when I went into the room, first.

MR. ROSENTHAL: Your Honor will allow me to read the testimony from the Coroner's Court?

MR. ELY: No, I object.

THE COURT: You must proceed in the regular way. If you desire to contradict the witness, you must direct his attention to any particular matter.

BY MR. ROSENTHAL:

Q Was this question asked in the Coroner's Court, and

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did you make this answer --

BY THE COURT:

Q Were you present at the Coroner's inquiry into this case? A Yes, sir.

Q And gave testimony there? A Yes, sir.

BY MR. ROSENTHAL:

Q "Q. That is the flat iron that the deceased's wife said the defendant used? A Yes, sir."?

MR. ELY: Now, I object. This doesn't contradict anything at all.

MR. ROSENTHAL: This is direct questioning from the District Attorney himself, if your Honor please, at the Coroner's inquiry.

MR. ELY: But this doesn't contradict anything.

THE COURT: The District Attorney is right in his suggestion of the theory. Now, let me explain it to you, and it may save the necessity of my ruling, hereafter. You have the right to examine this witness as to any personal knowledge he has of the facts under inquiry here. If he made similar statements in the Coroner's Court, that is not important here, because it is merely cumulative evidence. His evidence here is the best evidence; but if, in the Coroner's Court, he made a

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statement contradictory to what he now states, you have the right to direct his attention to it, and ask him whether or not he gave that testimony.

MR. ROSENTHAL: That is our very purpose, if your Honor please.

THE COURT: Then proceed.

BY MR. ROSENTHAL:

Q "Where was it? A On the stove."? Do you recall that answer to that question?

MR. ELY: I object.

THE COURT: He may answer.

A Yes.

MR. ELY: Now wait a minute. You have been cautioned a great many times.

THE COURT: But I must say, Mr. Ely, that the Officer heard me say, "He may answer," though you did not. But I will strike out the answer, and hear your objection.

MR. ELY: This does not at all vary anything that this witness has said, because the only line on which any contradiction is sought to be shown now is as to whether this man knew where this particular iron in question was, when he first came into those premises. Now it isn't a question -- he has

already said that it was on the stove, in answer to counsel's question, and it is incompetent, immaterial and irrelevant, and doesn't go to contradict a thing.

THE COURT: Well, I do not think it is important, but, to save time, I will let him answer the question.

MR.
BY ROSENTHAL:

Q Did you so testify? A Put the question.

(The question is repeated by the stenographer)

A Yes.

BY MR. ROSENTHAL:

Q And, at that time, you said that the iron was on the stove, and now you say you don't know where the iron was?

MR. ELV: I object. He hasn't said that at all.

BY MR. ROSENTHAL:

Q Which is correct?

MR. ELV: I object. He hasn't said that at all.

The question is improper.

THE COURT: Well, the quickest way would be to ask him the question.

BY THE COURT:

Q What is the fact as to your testimony? Is there

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or is there not a contradiction in your testimony on those two occasions? A I don't understand any contradiction; I don't see any contradiction in it.

THE COURT: Now, you have got the answer.

BY MR. ROSENTHAL:

Q Was there any discussion as to what iron was used, in the flat or apartments 1708 Park Avenue? A Yes.

Q What was that discussion? A I asked-Mrs. Minnough which iron her husband was struck with. She identified an iron.

BY MR. FLY:

Q Well, which iron? A The flat iron here (indicating People's Exhibit 1).

Q People's Exhibit 1? A Yes, sir.

BY MR. ROSENTHAL:

Q Was that all that was said there? Was there no contradiction to it? A No.

Q Positive about that? A No; yes; positive.

Q You are positive that you heard no contradiction?

A Yes.

Q Didn't you testify, in the Coroner's Court, page 6;

"Q But the deceased's wife indicated that was the one that was used? A I think the defendant's wife said this (indicating) was the flat iron, and the deceased's wife said no. Then

I picked up this one (indicating)."? Didn't you testify that way in the coroner's Court? A I believe so.

MR. ELY: read the next question, now. I object now, if your Honor please. The counsel hasn't finished this witness's answer, on the occasion that he has directed his question to, and he must finish the answer. He hasn't a right to read half of it, and not the other half.

THE COURT: I didn't understand that he had finished his inquiry.

MR. ROSENTHAL: If your Honor please, that is the very last question pertaining to the matter.

THE COURT: Well you must read the whole question and answer. I thought you had not finished your inquiry.

BY MR. ROSENTHAL:

Q "Mr. Rosenthal then said --"

MR. ELY: I object. I ask that the remark sought to be read by counsel be stricken out, and that he be required to read the complete answer.

BY THE COURT:

Q Do you recall, at the Coroner's Court, that this question was asked of you: "Q But the deceased's wife indicated that that one was the one that was used? A I think

the defendant's wife said this (indicating) was the flat iron and the deceased's wife said no. Then I picked up this iron (indicating)"? A Yes, sir.

MR. ELY: And the rest of it, continuing.

THE COURT: yes.

BY THE COURT:

Q And then, continuing the answer, did you say, "The deceased's wife then positively identified this (indicating) as the flat iron that the deceased was struck with"?

A Yes, sir.

THE COURT: It is a little misleading. It misled me, coming below there.

BY MR. ROSENTHAL:

Q Was the deceased in a laying or sitting position, when you entered the room? A In a sitting position.

Q And did you see any one else besides his wife near him? A Yes.

Q Who was it? A Miss Garry and Otto Lefevre.

Q What was Otto Lefevre doing at that time? A Standing there.

Q Wasn't he bathing his head with a cloth, a damp cloth?

MR. ELY: If he knows.

A No.

BY MR. ROSENTHAL:

Q Did he have a damp cloth in his hand? A I don't remember of seeing any.

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Q And was he giving any aid to the deceased?

MR. ELY: Objected to; whether he was giving any aid to the deceased person is a conclusion.

THE COURT: Sustained.

MR. ROSENTHAL: Exception.

BY MR. ROSENTHAL:

Q Was he dead when you entered the room, officer? A I don't know.

Q Didn't you talk to him? A With whom?

Q With the deceased? A No.

Q Page 2, Mr. Ely, of the Coroner's minutes. The first question: "Q And the deceased's wife said defendant picked up the flat iron and hit the deceased with it? A Yes.

"Q What did the deceased answer to that? A He said he didn't"? Did you say that at the Coroner's Court? Yes or no? A I don't recall saying it.

Q, Is that true, that statement? A Put that question again, please. I didn't fully understand it.

BY MR. ELY:

Q You know what deceased means, don't you? A Yes.

BY MR. ROSENTHAL:

Q "Q And the deceased's wife --"

BY THE COURT:

Q The first inquiry, officer, is as to whether or not

you gave certain testimony at the Coroner 's Court; and the second inquiry is as to the facts. You understand the distinction? A Yes, sir.

BY MR. ROSENTHAL:

Q "Q And the deceased's wife said that the defendant picked up the flat iron, and hit the deceased with it"?

A Yes, sir.

"Q What did the deceased answer to that? A He said he didn't"? Did you testify to that in the Coroner 's Court?

A I don't recall testifying that way.

Q And is your memory better now than it was at the Coroner 's Court?

MR. ELY: Objected to.

THE COURT: Sustained. Now ask him facts.

BY MR. ROSENTHAL:

Q Did you testify to that, at the Coroner's Court, is it true or not?

MR. ELY: I object.

BY THE COURT:

Q What is the fact? Is that true or not?

BY MR. ELY:

Q That the deceased said anything, the dead man? A No.

BY THE COURT:

Q Did he speak at all after you got there? A No.

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Q Now, in the Coroner 's Court, did you give any testimony to the effect that he did speak, after you got there? A No, sir.

Q Now is your recollection clear o n that point, first, the point of fact, whether he spoke or not?

BY MR. ELY:

Q The dead man? A The dead man didn 't speak, no.

BY THE COURT:

Q You are sure of that? A Positive.

Q Now can you, with equal,positiveness, say whether or not, at the Coroner 's Court, you testified that the deceased did speak? A No.

THE COURT: Now, I think you have it, Mr.

Rosenthal, quite clearly.

BY MR. ROSENTHAL:

Q Page 4, question 3: "QThen what was said? A Then the defendant's wife said that it was her mother that threw the flat iron, to strike her husband, and accidentally struck her own husband"? Now do you recall that statement?

MR. ELY: What statement?

MR. ROSENTHAL: I mean the statement in the Coroner 's Court.

MR. ELY: What statement in the Coroner 's Court?

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THE COURT: Read your question, again.

Strike out the question, and embody in it clearly what you quote.

BY MR. ROSENTHAL:

Q Officer, how do you know whether there was any blood wiped off the floor or not of those apartments? A The floor was damp and the blood appeared to be wiped off. It was in two different places on the floor, and, between those two places, it was damp, and appeared to be wiped up.

Q And, because the floor had been damp and wiped up, you construed that it was blood, that there had been blood there previously; is that it? A (No answer.)

Q Isn't that the only answer that you can give to it?

MR. ELY: Now I object. He should be allowed to answer one question, before he gets another.

THE COURT: Yes; I did not hear any answer to the first of your two last questions.

A Put that question again, please.

(It is repeated by the stenographer.)

A (No answer).

BY MR. ROSENTHAL:

Q Will you answer that question, if you can, officer?

BY THE COURT:

Q Answer the question, if you can? A Yes, sir.

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MR. ROSENTHAL: Then I move to strike out his answer, if your Honor please, as to the blood being on the floor.

THE COURT: I cannot strike out a responsive answer. You asked the question, and he has answered. Now you cango on, and, if he has not told the truth, you may contradict him. Shall I take the witness in hand?

MR. ROSENTHAL: Certainly, sir.

THE COURT: Strike out the question and answer.

BY THE COURT:

Q Now, you have testified, Officer, have you not, that there were signs of blood on the floor? A Yes, sir.

Q Did you observe the blood itself on the floor? A Yes, sir.

Q ,Do you know whether or not any blood had been wiped from the floor? Yes or no? A No.

THE COURT: I think you have got it. Now, you may go on, if you haven't it sufficiently.

BY MR. ROSENTHAL:

Q Now do you know that that woman, the old lady, was the wife of Mr. Minnough, the deceased, and that her name was Minnough? A She told me so.

Q That's the only way that you know that that's her name?

A Yes, sir.

Q Was the other woman spoken of called Mrs. Lefevre?

MR. ELY: I object. Oh, I withdraw the
objection.

A When and where?

BY MR. ROSENTHAL:

Q In the room, at that time? A Yes.

THE COURT:

Gentlemen of the Jury, do not talk about this
case, or permit any one to talk to you about it,
or form or express any opinion thereon, until this
case shall be finally submitted to you.

The Court will take a recess until two o'clock.

AFTER RECESS.

J O H N T A G G A R T, his cross examination being continued,
testified as follows:

CROSS EXAMINATION CONTINUED BY MR. ROSENTHAL:

Q When you saw the deceased laying or sitting against the
wall what did you do toward -- to him? In other words,
did you walk over to him? A Yes; I looked at him.

MR. ELY: Go ahead and answer the question.

BY MR. ROSENTHAL:

Q And then? A And then I saw two fresh cuts on his
head.

Q Yes? A I then got him medical aid.

Q Where were those cuts, Officer? A One was on the
left side of the forehead, and the other on the top of the
head.

Q Will you motion, point, to exact where they were?

MR. ELY: I object, unless he --

BY MR. ROSENTHAL:

Q As best you can.

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MR. ELY: I object, as incompetent, immaterial and irrelevant. We have had direct testimony on the subject by the doctor.

THE COURT: I will sustain the objection, and ask you to repeat your question, in different form. You say motion or point, and it is indefinite.

BY MR. ROSENTHAL:

Q Will you state just where the cuts or wounds were on the head?

MR. ELY: If you can.

BY MR. ROSENTHAL:

Q If you can? A On the left side of the forehead; one along there (indicating); about two inches long.

Q And where was the other one? A On the top of the head (indicating).

Q How large was the wound, to your knowledge? That is, the wound that you have just explained, first? A About two inches long.

Q How large was the second one? A It was half an inch.

Q You are not sure whether it was two or four inches long; are you?

MR. ELY: I object.

THE COURT: You may answer, if you know.

A It wasn't four inches long.

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BY MR. ROSENTHAL:

Q Are you positive it wasn't four inches long? A Well, I didn't measure it .

Q Were there any marks on the defendant when you entered the room?

MR. ELY: That he observed, of course?

BY MR. ROSENTHAL:

Q Did you observe any marks on the defendant when you entered the room? A Yes, sir.

Q What were those marks? A They were scratches, on and about his nose.

Q How large were those scratches? A Well, they were small scratches.

Q Two inches long on each side? A No.

Q One inch long? A I don't think it was quite one inch long.

Q There were three scratches; two on one side, and one on the other?

MR. ELY: I object. He hasn't stated so, and this is new matter.

BY MR. ROSENTHAL:

Q How many were there, that you observed? A I observed one on the top of the nose, and one on the side.

Q You observed three scratches? A Yes, sir.

MR. ELY: I object. He didn't say scratches. This witness said marks, and the counsel made it, if your Honor please, scratches.

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MR. ROSENTHAL: He is under cross examination, if your Honor please.

THE COURT: There is nothing before me. There is a statement made by counsel, apparently. I will strike out the statement. Now proceed with the question.

BY MR. ROSENTHAL:

Q Now what were they, scratches or marks, on the defendant's face?

MR. ELY: Objected to, unless he observed.

BY MR. ROSENTHAL:

Q From what you observed, how many scratches or marks were there on the defendant's face? A I believe, about three.

Q And you say one was on the top of his nose?

A Yes, sir.

Q How big was that scratch?

MR. ELY: I object.

BY MR. ROSENTHAL:

Q Or whatever it was.

MR. ELY: The mark.

A It was a mark.

BY MR. ROSENTHAL:

Q A mark? A Yes, sir.

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Q How big was that mark, or how large? A About the size of a dime; hardly as much as a dime, in my opinion.

Q About the size of a dime; hardly as much as a dime, in your opinion? A Yes, sir.

Q How did you know it was a mark?

MR. ELY: Oh, dear me, if your Honor please, I object to that question as absurd.

A It was smeared with blood.

MR. ELY: Be quiet, will you? I object.

THE COURT: You may tell us what you saw.

MR. ELY: He has already described, sir.

BY THE COURT:

Q Now describe its appearance. A There was a scratch at the top of his nose, about the size of a dime, and one on the side (illustrating). One was up about here, and the other one was down about here (indicating)/

BY MR. ELY:

Q Well, indicating one up under the eye? A Yes, sir.

Q And the other at the base of the nose; is that right?

A Yes, sir.

BY MR. ROSENTHAL:

Q Was anything said to you at that time as to how he got those scratches? A No.

Q When was it said to you -- when was there anything

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said to you about that?

MR. ELY: Objected to.

THE COURT: He may answer when.

MR. ELY: But that is foisting something into the case that isn't fair.

THE COURT: But, it being cross examination, Mr. Ely.

MR. ELY: But it is new matter.

THE COURT: He may answer. He may fix the date when he learned.

A What was the question?

Q (Question repeated) A At the coroner's examination.

BY MR. ROSENTHAL:

Q Previous to that time didn't you see any marks on his face? A Yes.

Q You didn't ask why those marks were on his face; did you?

MR. ELY: I object.

THE COURT: Sustained.

BY MR. ROSENTHAL:

Q Did you ask why they were on his face?

MR. ELY: Objected to.

THE COURT: Well, if he asked the defendant he

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may say so.

MR. ELY: I submit that it is incompetent, if your Honor please. I object. I brought out no such testimony.

THE COURT: Well, if you place your objection on that ground, I will sustain it.

BY MR. ROSENTHAL:

Q Page 7 of the coroner's testimony, ninth question, on the bottom of the page, or, rather, the eighth question: "Q Are you sure those scratches were over an inch long, two of them on one side of the face? A I am not positive."

MR. ELY: Now, I object to that, and ask to have --

BY MR. ROSENTHAL:

Q Did you give that answer in the coroner's Court?

MR. ELY: I object, and ask to have that stricken out.

THE COURT: Sustained.

MR. ROSENTHAL: I take an exception.

BY MR. ROSENTHAL:

Q Question 9, page 7: "Q Did you see a big spot, the size of a ten cent piece, with the skin all torn off, on the bridge of the nose? A I didn't notice that."

MR. ELY: I object to that, and ask to have it

stricken out.

BY MR. ROSENTHAL:

Q Did you testify to that, at the Coroner's Court?

MR. ELY: Objected to.

THE COURT: Sustained.

MR. ROSENTHAL: Upon what ground, I should like to know, if your Honor please?

THE COURT: Well, I will tell you, though there is no obligation on me, possibly, to explain my ruling. The testimony that you offer as having been elicited in the Coroner's Court, does not tend to contradict anything. For that reason, I sustain the objection. You may inquire as to the fact; and that would be the proper way of proving the fact. If it is objected to, it may be objectionable upon another ground; I don't know.

MR. ROSENTHAL: The question was asked if there was a spot or scratch on his nose, and he says now that there was. In the coroner's Court he said, "I didn't notice it."

MR. ELY: He said, on the bridge of his nose there

THE COURT: I will sustain the objection. I will adhere to my ruling.

MR. ROSENTHAL: Exception.

BY MR. ROSENTHAL:

Q Was there any blood on the defendant's face, when you entered the room?

MR. ELY: I object. He has already testified in that behalf. He said that there was.

MR. ROSENTHAL: There was?

MR. ELY: Yes.

BY MR. ROSENTHAL:

Q When did you first hear that a broom had been used in that room upon the defendant?

MR. ELY: I object to that. There is no such testimony.

BY MR. ROSENTHAL:

Q Did you ever hear that a broom had been used on the defendant in that room?

MR. ELY: I object to that, as too indefinite and vague, and calling for hearsay.

THE COURT: I take it that your question is purely discretionary; whether he heard so or not, is not important. You can ask him as to his personal knowledge, I think.

BY MR. ROSENTHAL:

Q Were you told?

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THE COURT: No, you are seeking hearsay testimony now.

BY MR. ROSENTHAL:

Q Were you told in the presence of the defendant and the witnesses that this man was struck with a broom by the deceased's wife?

MR. ELY: Objected to.

THE COURT: Sustained.

MR. ROSENTHAL: Exception.

BY MR. ROSENTHAL:

Q What did you do after you placed the defendant under arrest?

MR. ELY: With respect to this case, of course, you mean?

MR. ROSENTHAL: Yes; with respect to this case.

A Took him to the station house.

Q Did you return to the house 1708 Park Avenue?

A Yes.

Q Did you stay there? A Yes.

Q How long? A Until 8 a.m., the 29th; until I was relieved.

Q Was anybody else there with you?

MR. ELY: Yes or no.

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BY MR. ROSENTHAL:

Q Yes or no. A No.

Q Wasn't there a man by the name of Otto, another man by the name of Otto, there?

MR. ELY: Objected to as new matter, just called out by the defense, and they are making this witness their own for this purpose, and it is incompetent, immaterial and irrelevant, as occurring after the act.

THE COURT: It is a preliminary question, Mr. Ely. I do not know whether it is relevant or not, whether it will be connected.

MR. ELY: Well, as far as it is now concerned, it is purely immaterial.

THE COURT: Well, it is a question leading to something else, and I will allow it. He may answer.

A I don't know their names.

BY MR. ROSENTHAL:

Q But you saw two people there? A Yes, in the front room of the house, when I returned; and an officer.

Q Did you find an empty can there on the wash tub or bath tub -- on the wash tub rather?

MR. ELY: I object. When?

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BY MR. ROSENTHAL:

Q In the room at the time that you entered the room?

MR. ELY: The first or second time?

MR. ROSENTHAL: First.

MR. ELY: I don't object to that.

A No.

BY MR. ROSENTHAL:

Q Did you see any tin can there, at any time?

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

BY MR. ROSENTHAL:

Q After you first entered the room?

MR. ELY: I object. He says he didn't see it.

THE COURT: Well, he may answer that.

A I don't remember seeing any.

BY MR. ROSENTHAL:

Q What talk, if any, did you have, and when, in reference to the broom?

MR. ELY: I object to that. That is interpolating something in the evidence that isn't there; that is assuming something that isn't in the evidence.

THE COURT: Sustained.

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MR. ROSENTHAL: Exception.

BY MR. ROSENTHAL:

Q Page 10 of the Coroner's minutes --

THE COURT: Unless you are seeking to contradict ~~the~~ some of the testimony of this witness, do you think it is necessary to proceed further?

MR. ROSENTHAL: I am doing that, sir.

BY MR. ROSENTHAL:

Q "Q Do you know whether she struck this prisoner or not? A --"

MR. ELY: Objected to. There has been no testimony on the question of the broom; nothing brought out in the testimony, at all, on the subject of any broom yet. There is no evidence that this witness has been asked on the subject of a broom, that has been allowed; and, therefore, no testimony can be allowed, at this time, to contradict him. You have sustained every objection on the subject of the broom. And will you direct the counsel not to read the Coroner's minutes, at this time?

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THE COURT: I cannot do that, Mr. Ely. He may ask his question, but I will instruct the jury to disregard his question, unless it is taken in connection with the witness's answer, in regard to the testimony.

MR. ROSENTHAL: There was a great deal more said by this officer, in the Coroner's Court, than he has stated here.

THE COURT: I can't help that.

MR. ROSENTHAL: No. And the District Attorney hasn't brought it out, and for that reason I want to bring it out. There was more evidence produced, as I understand.

THE COURT: Your question is open to objection, and, being objected to, I must sustain the objection.

BY THE COURT:

Q Now, Officer, do you know anything about a broom having been used?

MR. ELY: Of your own knowledge?

A No.

BY THE COURT:

Q At the time you went there, on the 29th of April?

A No.

Q You have no knowledge of it at all? A No knowledge.

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MR. ROSENTHAL: Can I ask him the question,
if he ever saw a broom there?

MR. ELY: He has answered that before, and
I don't mind if he answers it again.

BY THE COURT:

Q Did you see a broom there? A No.

Q Did you hear anything said about a broom? A No,
sir.

BY MR. ROSENTHAL:

Q At no time?

MR. ELY: Objected to.

THE COURT: Sustained. He has answered it.

BY MR. ROSENTHAL:

Q "Q What was the conversation --"

THE COURT: Now wait.

BY THE COURT:

Q Did you, at the Coroner 's Court, hear this question
asked, and did you make this answer?

THE COURT: Now go on.

BY MR. ROSENTHAL:

Q "What was the conversation? What talk did you have
about the broom? A At any time?"

MR. ELY: Objected to.

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THE COURT: Sustained.

BY MR. ROSENTHAL:

Q "A At any time? Q Yes? A The next day in court was the first talk ever heard of a broom, in the Harlem Court, on the same day."

MR. ELY: Objected to.

THE COURT: Objection sustained.

BY MR. ROSENTHAL:

Q "Q What was said? A --"

MR. ELY: Objected to.

THE COURT: I will sustain the objection.

MR. ROSENTHAL: The next question will explain it.

THE COURT: We are not trying this case in a proper way, and I suppose I ought to let you ask the question, and sustain the objection, but I wish to save time. If the officer heard something said about the broom subsequently, the officer could not testify to it at all. What he heard is not competent; and you are seeking to elicit incompetent testimony, and you are therefore, wasting time.

MR. ROSENTHAL: But we are attempting to impeach the credibility of the witness, by showing

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that he has given different testimony, at another time.

THE COURT: But you are not doing it. The questions do not tend to show that, or to impeach his credibility.

A L L E N C. B R O W N, a witness called on behalf of the People, being duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. ELY:

Q Brown, what is your business ? A Architectural draughtsman.

Q And how long have you been engaged in that business?

A About fourteen years.

Q Do you remember the 3rd day of May, 1906? A Yes, sir.

Q Did you, pursuant to directions from the District Attorney's office, go to 1708 Park avenue, in New York County?

A Yes, I did.

Q And did you go up to the fourth floor in the premises 1708 Park avenue, in New York County? A Yes, sir.

Q And did you make a diagram, or did you make a drawing, of the fourth floor, west flat, of No. 1708 Park avenue, City and County of New York? A Yes, sir.

Q And was that drawing -- did that drawing purport to be a correct representation of the apartments -- of that apartment -- namely, the west flat on the fourth floor of premises 1708 Park avenue, in New York County? A Yes; it was a scale drawing.

Q It was on a scale? A Yes, sir.

Q Now, I show you this paper, and ask you if you ever saw it before? A I did.

Q And what is that paper? A Diagram of the fourth floor, west flat, of 1708 Park avenue, in the City and County of New York.

Q And that was made by you on May 3rd, 1906? A Yes, sir.

Q And on what scale was it made? A $3/8$ ths of an inch equals one foot.

Q And is that a correct diagram of the westerly half of the fourth floor of the premises 1708 Park avenue? A Yes, sir,

Q As they appeared on the 3rd of May? A Yes, sir.

Q Now you noticed in that apartment, on the 3rd of May, 1906, certain articles of furniture? A Yes, sir.

Q And you don't know how those articles of furniture were placed, prior to the time that you went there? A No, I don't.

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Q Have you marked any articles of furniture upon that diagram that you made? A Yes; I marked the furniture, with the exception of the chairs.

Q And in what color have you marked the furniture?
A They are colored yellow.

Q And the places on that diagram colored -- all the places on that diagram colored yellow, indicate furniture; do they? A Yes.

Q And, of course, you don't know where that furniture was prior to the time that you saw it placed as it was in the apartment? A No, sir; other than it looked like the natural position of some of it.

MR. ELY: No. Strike that out. That is an opinion. Of course, your Honor sees the propriety of the question.

BY MR. ELY:

Q Now there are other places there that you have marked with names, haven't you, besides these articles colored yellow, that you have marked with names? A Yes, sir.

Q And are these other places that you have marked what is known as stationary places? A Yes; stationary fixtures; built into the house.

Q Built into the house? A Yes, sir.

Q Or put up in the house? A Yes; a stove would be

separate, or a sink, or a dresser or wash tub.

MR. ELY: I offer this in evidence, if your Honor please. I don't, however, offer the location of the various articles of furniture, as placed on this diagram in evidence, for the purpose of in any way indicating either what the articles of furniture were, or where they were, on the morning of the 29th of April, 1906. The diagram is offered for the purpose of showing the situation and the dimensions of the rooms, and the interior of the apartment, or the flat, and that only.

BY MR. ROSENTHAL:

Q Just one question, and that is this: Did you notice an ice-box in there, next to the dresser, facing the bath room, an ice-box? A I might have noticed it, if I had noted it on the plan.

BY THE COURT:

Q You don't remember now whether you noticed it or not?

A No, sir.

THE COURT: You can tell from an inspection of the plan.

MR. ROSENTHAL: Well, with that exception, that's all. There was one there, but it makes no

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difference.

MR. ELY: And I object to that testimony on the part of counsel, that there was one there.

THE COURT: Now, I understood you to say that, with the exception of the ice-box, you had no objection to the plan? Is that right?

MR. ROSENTHAL: Yes; that's right.

THE WITNESS: No; I have no note of it.

BY MR. ELY:

Q You have no note of that at all? A No, sir.

Q Now, there is one other question. There was no ice-box that was built into the partition or the wall; there was no stationary ice box there; at least, if there was any ice-box, it was a movable one? A I wouldn't say that; I can't remember, off hand, now.

Q Whether there was any or not there? A Yes, sir.

THE COURT: It is offered now?

MR. ELY: Yes.

THE COURT: It is conceded, apparently, that the diagram represents the fixtures of the building, and, so far as the places or names marked in yellow, they must be disregarded by the jury, and they must regard only the fixed and immovable walls and parti-

tions of the place?

MR. ELY: Yes, sir.

BY MR. ELY:

Q Now, the water closet is marked "W.C." in yellow. That was a fixture; wasn't it? A Yes, sir.

THE COURT: Then they may regard that.

MR. ELY: Oh, it don't make any difference.

Rub out the yellow mark on the "W.C."

THE WITNESS: I will, sir. 'Rubs it out.)

BY MR. ELY:

Q Now, that's correct, is it? A Yes, sir.

THE COURT: I will receive it.

(It is marked People's Exhibit 2.)

CROSS EXAMINATION: None.

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RE DIRECT EXAMINATION
BY MR. ELY:

Q Now, in describing this, T said westerly. Look at it, and see if the points of the compass are there. And what side is the apartment on? A Well it might be said to be westerly, but it is more southerly; southwesterly would be better.

WILLIAM H. WARD, a witness called on behalf of
the People, being duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. ELY:

Q Ward, you are an officer connected with the Police Force of the City of New York, and have been so connected for ten years or more; haven't you? A Yes.

Q And you are now a Sergeant of Police? A Yes, sir.

Q Are you assigned in the 32nd Precinct? A Yes.

Q And for how long a period have you been there?

A Since April 12th past.

Q 1906? A Yes; 1906.

Q And you are Desk Sergeant, are you? A Yes, sir.

Q And are you acting as that still? A Yes.

Q Now, on the morning of the 29th of April, 1906, were you acting as Desk Sergeant? A After midnight; yes.

Q Well, that is, on the morning? A Yes, sir.

Q After midnight? A Yes, sir.

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Q Now do you see this man sitting here (indicating the defendant)? A Yes, sir.

Q Did you see him on the morning of the 29th of April 1906? A Yes, sir.

MR. ELY: Bring in Lizzie Garry.

BY MR. ELY:

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

Q Was Officer Taggart -- do you know what precinct Officer Taggart was attached to, on the morning of the 29th of April, 1906? A The 32nd Precinct.

Q And that's in your precinct, was he? A Yes.

Q Do you see this woman standing here (indicating)?
A Yes.

Q Did you see this woman on the morning of the 29th of April, 1906? A Yes, sir.

Q Where? A In the Police Station of the 32nd precinct.

Q And do you see this woman in black (indicating)?
A Yes, sir.

Q Did you see this woman on the morning of the 29th of April, 1906? A Yes, sir.

Q And where was she at the time you saw her? A In front of the desk, at the 32nd Precinct Station House, in East

126th street, on the morning of the 29th of April last.

Q And where was the defendant, at the time?

A At the same place, in front of the desk in the 32nd Precinct Station House.

Q Now did you have any conversation, or did any conversation take place when the defendant and Mrs. Minnough and Lizzie Garry were standing in front of your desk? on the morning of the 29th of April, 1906, in the police station, in which the defendant participated? A Yes.

Q Took part? A Yes, sir.

Q Now, Ward, you may tell the whole conversation that happened, and as near as you can recollect give what each said and what you said. Tell the whole story. A I was behind the desk, at 2:10 a.m., when Officer Taggart, of that precinct, the 32nd, came in with the defendant.

MR. ROSENTHAL: If your Honor please, I ask that Officer Taggart leave the room, under the instructions.

THE COURT: Well, he has already given testimony. You have exhausted him. Go on, please.

A (Answer continued) Officer Taggart brought in the defendant, and arraigned him in front of the desk, and stated that he had brought him from 1708 Park Avenue, and on the charge of killing a man at that apartment.

I took the prisoner's pedigree, wrote it in the blotter, the station house blotter.

After I had taken his pedigree, I listened to what the officer had stated, in a few short words, of what he knew about it.

I said to the defendant, "What have you got to say to this charge?" And he says, "I have nothing."

Then I said to him, "Do you deny it?" He said, "I do."

The officer said to me, then, in the presence of the defendant, that the elderly lady, Mrs. Minnough, he stated, was the wife of the deceased. I addressed her, and I asked her, "What do you know about this case?" And she says, in turning away from me, and addressing her remarks to the defendant, she stated, as near as I can recall, "You know you struck my husband with that flat iron," pointing to the flat iron which had been laid on the desk by the officer, when he came to the station house. The other lady, the younger lady --

Q The one that came in first? A The one that came in first.

Q The one that I called, and came in response to the name of Lizzie Garry? A Yes. She interrupted the elderly lady, Mrs. Minnough, and I said to her, "Now what have you got to say?" And she says, addressing her remarks to Mrs. Min-

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nough, "You know that your husband had the iron, and, in striking my husband, hurt himself."

I says to the officer, then, "Do you know anything further about it?" And he said, "No, I don't." I said, "Search the prisoner," and told the doorman to take him back to his cell.

Q Now, Ward, did you notice the condition of the defendant and the woman who came in answer to my call for Lizzie Garry, and the woman who came in answer to my call for Mrs. Minnough? A Yes.

Q Now what did you observe as to their condition?

A Well, both women were very excited, especially the elder woman, Mrs. Minnough. She was in tears.

Q Well, as far as sobriety is concerned? A Well, as far as I could see, they were both in their sober senses.

Q And what about the defendant? Did you notice him?

A I did, sir.

Q Well what did you notice, if anything, about his condition? A There was nothing out of the way. He was perfectly self-composed, and seemed in his natural senses, and under no influence of drink, as far as I could see.

Q Well, now, when Mrs. Minnough turned to the defendant, and said, "You struck my husband, and you know you did," what did the defendant do, if anything? A He didn't do any-

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thing.

Q Did he look at Mrs. Minnough? A He did, sir.

Q And, other than to turn and look at her, he did nothing? A He did nothing else.

Q But he did turn and look at her, when she addressed him? A Yes, sir.

Q Now you spoke of a flat iron, or an iron, that was handed in by the officer, Officer Taggart, at the time that this defendant and these two women came into the station house. Look at that flat iron, and tell me if that is the flat iron that was then present, according to your knowledge and recollection (indicating the flat iron in evidence)?

A That evidently is the flat iron, because that has my writing on the tag.

CROSS EXAMINATION BY MR. ROSENTHAL:

Q Did the defendant deny that he killed the deceased?

A Well, I asked him if he denied the charge -- I know I asked him, "What do you know about this? What have you to say about this?" And he said, "I have nothing," and I said, "Do you deny the charge?" And he said, "I do."

Q Did you notice any scratches on his face, Officer?

A I don't recall of noticing anything unusual.

MARY E. MINNOUGH, a witness called on behalf
of the People, being duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. ELY:

Q Mrs. Minnough, where do you live? A I live at 45 East
112th Street.

Q And how long have you lived there? A Since the 5th
of August.

Q Now, look in this direction, please, and talk loud,
please, so that the last juror can hear you. You are a
widow? A Yes, sir.

Q Did you know Michael J. Minnough, in his lifetime?
A I knew him 15 -- around 16 years; and I kept company with
him for a year previous to my marriage, and was married about
15 years.

Q Well then you knew Michael J. Minnough before the
29th day of April, 1906? A Oh, yes.

Q How long had you known him then? A About 16 years.

Q Now you say that you married him -- that you were
married to him for about 15 of those 16 years that you had
known him? A 15 years, going on 16.

Q 15 years, going on 16? A Yes, sir.

Q Where were you married to him? A I was married to
him in, I think it is, 54th Street, between Eighth and Ninth

Avenues. It is in the Dutch Reformed Church.

Q And what did Michael do in his lifetime; what was his business? A His business was a carriage painter and general workman.

Q General painter you mean? A General painter, striper and finisher.

Q And for what carriage manufacturers did he work? A He worked for Flandrau, right down here; and for Healey, Brothers; and Brewster's, and Stivers; and for Healey, in Broadway. He was last employed with Manson Brothers, in Unionport.

Q And how long was that before his death? A Just the very night he came home from work; he had just left there. He hadn't left there, but he had just come home.

Q He had just come home from his work? A Yes, sir.

Q And he was still employed by Manson Brothers as a painter? A Yes; with an increase of salary, the next day.

Q Well never mind about that, please. And did you ever have any children? A By Mr. Minnough? No, sir.

Q No, I didn't ask you that. I asked you if you ever had any children? A Yes, I had.

Q And you have been married three times; haven't you? A Yes.

Q And your first husband's name was what? A Joseph F. Brown.

Q And did you have any children by Joseph F. Brown? A I had five.

Q And how many have survived? A Two.

Q And what are their names? A Annie Irene and Elizabeth Veronica.

Q Well, Annie Irene is the name of one, the Christian and middle name of one? A Yes, sir.

Q And she is the oldest? A Yes; that is, she is the oldest that survived.

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Q Yes . That's what I am talking about; the oldest living? A Yes, sir.

Q And the other is Elizabeth Veronica? A Yes, sir.

Q And is she married? A Yes, sir.

Q To whom is she married? A Charles V. Garry.

Q How long has she been married to him? A I should judge about nine years .

Q How old is she now? A She is -- her next birthday, she will be twenty-six.

Q And was she the woman that you saw standing there at the rail, when you came in, a moment ago? A Yes.

Q When Sergeant Ward was in the witness chair? A Yes.

Q Now do you know, as a matter of fact, whether Lizzie Veronica Garry has been living with Garry for the last three or four years? A She is not.

Q And do you know whether Garry is alive or dead? A He is alive.

Q And now do you know who Elizabeth or Lizzie -- is it Elizabeth or Lizzie? A Well, Elizabeth was her christening name , but of course we have called her Lizzie.

Q Well, that's all right. Well do you know who Elizabeth Veronica Garry has been living with, for the last two or three years? A Yes.

Q With whom has she been living? A With a man named

Otto Lefevre.

Q And do you see him present now, that man? A Yes, sir.

Q Where is he? A He is right there (indicating).

Q Now, on the 29th of April, 1906, where did you live?

A I lived at 347 Pleasant avenue.

Q And about what street is 347 Pleasant avenue? That's in the Bronx, isn't it? A Between 118th and 119th streets.

Q And do you know where Lizzie Garry lived, on the 29th of April, 1906? A She lived 1708 Park avenue, between 119th and 120th.

Q Now how far away was your place from where she lived; how far away from the place in which you then lived was the place in which Lizzie lived, on that date? A Well, it was from Pleasant avenue over to Park.

Q I don't know how many blocks that is. That's the reason why I want you to tell it. Two or three? A Oh, it's more.

Q Four or five? A About five blocks.

Q About five blocks away, was it? A Yes.

Q Five crosstown blocks? A Yes; about five or six blocks.

Q Well, then, she lived about five blocks away? A Yes.

Q Now what time did your husband get home, on the night of the 28th of April, 1906? A He got home around seven

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o'clock in the evening.

Q Now , mary, don't give any conversation, please, when I ask you these questions, any conversation that may have occurred between yourself and your husband. Do you understand?

A Yes.

Q When the defendant wasn't present. Because it isn't proper, and shouldn't be brought out. Now when your husband got home, what did you do, and what did he do? A He took off his hat and coat, and remained in the house some time, and I was finishing up what little I had to do, to go out and do my marketing, and he wasn't feeling very well, he said.

Q Now, don't tell that. Now did you and your husband remain in your premises that whole evening? A Well, we did; yes.

Q And did you go out at all? A We went out with my daughter.

Q Now yes is the answer to that? A Yes.

Q And about what time did you go out? A Well, it was after eleven.

Q And before you and Michael went out, on the evening of the 28th of April, 1906, from your house in Pleasant avenue, did anybody call there? A My daughter.

Q And who, if anybody was your daughter accompanied by?

A Her little daughter.

Q And what's her name? A Gladys Garry.

Q And what is her age? A She will be six, her next birthday.

Q That is, Gladys Garry will? A Yes.

Q Still remembering, Mary, my injunction to not give conversations please, do you remember about what time it was that your daughter, Lizzie Garry, accompanied by your granddaughter, Gladys Garry, came to your house on Pleasant avenue, on the night of the 28th of April, 1906; about what time? A Eight o'clock.

Q And how long did you and your daughter and granddaughter and your husband remain in the premises? A Until around eleven o'clock.

Q Now at any time between the time that your husband returned home from his work, and the time that you and your husband and your daughter, Lizzie Garry, and your granddaughter, Gladys Garry, went out on that evening, did anybody have anything to drink? A Yes.

Q Now what was it to drink, between the time that your husband returned home, and the time that you and your husband and the others left, about eleven o'clock? A There were two pints of lager.

Q And was that all? A That was all; yes.

Q Now how was that two pints of lager -- was that consumed?

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And, when I say consumed, I mean drunk up? Yes or no, please?

A Yes; I guess it was.

Q And how many used those two pints of beer? A Three of us.

Q And who were the three? A My husband, my daughter and myself.

Q And that is Lizzie Garry? A Yes.

Q And yourself? A Yes, sir.

Q Now how many glasses did each have, if you know? How many glasses are there in two pints? How many did you have?

A Well I guess I had about three and a half or four glasses.

Q And how many did your husband have? A Each had about alike. Six in a pint, about six glasses to a pint. We each had two each out of each pint.

Q At any time that your husband got home, on the night of the 28th of April, 1906, until he went away with you, on eleven o'clock, on the same evening, did your husband leave you? A Did my husband leave me?

Q Did he go out, did he go away? A No, sir.

Q Was he in the house from the time that he got back from his work, until the time that you and Lizzie and Gladys went out together? A Only the time that he went out for the two pints of beer.

Q He went out for those? A Yes, sir.

Q And you know that, while he was in your Pleasant

avenue home, from seven to eleven, that night, he didn 't have anything else to drink, except his share, as you have described, of the two pints? A Yes, sir.

Q And you didn't have any more? A No, sir.

Q And Lizzie didn 't have any more? A No, sir.

Q And you say Lizzie got there about eight o'clock, and stayed there, with Gladys and you and your husband, until eleven o'clock? A Yes, sir.

Q Now, there was certain conversation there, was there not? You were talking all the time? A Yes, sir.

Q And, after talking, what did you do? A We went out, and my daughter and I went to the butcher 's.

Q And who went with you? A My husband.

Q And how many in family were you, at this Pleasant avenue home? A There was my husband, myself and little granddaughter, Lizzie Garry's oldest child.

Q And how old is that child? A She will be eight, the 8th day of March.

Q And what's her name? A Lillian Veronica.

Q Lillian Veronica Garry, is that it? A Yes, sir.

Q And that is Lizzie Garry's oldest daughter? A Yes, sir.

Q And you say she is about eight? A Yes, sir; she will be eight on the 1st of March.

Q And who has brought Lillian Veronica up? A I have.

Q Since what age? A Since she was about four years old.

Q Up to the present time? A Yes, sir.

Q And are you still caring for her? A Yes; I am still rearing her.

Q And supporting her? A Yes, sir.

Q And who supported her from her fourth year up to the present year? A Michael J. Minnough.

Q And yourself? A Yes, sir.

Q And, when you left the house, at eleven o'clock, you and Lizzie went to the butcher's; did you say? A Yes, sir.

Q And did Minnough go with you? A Yes, sir.

Q And then where did you go? A We went direct to Lizzie 's home, 1708 Park avenue.

Q And what floor was Lizzie 's home on? A I think it was the fourth floor.

Q Now, Mary, have you ever seen People 's Exhibit 2? Take it in your hand and look at it? A Yes; I seen this upstairs in your office, yesterday.

Q You saw that upstairs, yesterday, in my office? A Yes, sir.

Q And was that the first time you had ever seen it?

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A Yes, sir.

Q And did I tell you to look at it, and understand what it contained? A Yes, sir.

Q And did you understand it? A Yes, sir.

Q And did you look at it? A Yes, sir.

Q Now tell me whether or not, according to your recollection, that is a correct diagram of Lizzie 's rooms in 1708 Park avenue? A Yes, sir.

Q Now who did Lizzie live there with, at 1708? A With Otto Lefevre.

Q This man here (indicating the defendant)? A Yes, sir.

Q When you go upstairs on this fourth floor, according to this diagram, you get into a public hall; don't you? A Yes, sir.

Q And then you go through the public hall, and there is a door leading into this apartment; is there not? A Yes; into a small hall.

Q Into a small hall? A Yes, sir.

Q And then there is another door that leads into the parlor? A Yes, sir.

Q And then the parlor is the one that faces on Park avenue? A Yes, sir.

Q Now when you and Lizzie -- did Gladys go with you, and

Lizzie and your husband to the butcher's? A Yes, sir.

Q And then you all went back to Lizzie's home; did you?

A Yes, sir.

Q And, now, you see there is a door from the public hall into the parlor, and also from the public hall into a hallway that leads into the kitchen? A Yes, sir.

Q Now which door did you go in? A We went in through the door leading into the small hall.

Q Well, then, you went into this door here (indicating)? A Yes, sir.

Q Then, when you got to the door which leads into the hallway, which connects the bed room, "marked "bed room", and the room which is marked "kitchen", what did you do?

A Well, when we got in --

Q Well you are only at the door now, Mary? A Well, we had to knock and knock at the door, before we got in.

Q Well who came to the door, and admitted you? A Otto Lefevre.

Q The defendant here? A Yes, sir.

Q And then where did you all go, when Otto Lefevre, the defendant, opened the door? A We went into the kitchen, and went back towards the bed room.

Q Well you all went into the kitchen here (indicating)? A Yes, sir.

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Q And the defendant, after opening the door, went back in the direction of bed room "B"; did he? A Yes, sir.

Q Now, don't give any conversation while the defendant was in the kitchen. There was some talk there, was there? Now just tell me who went into the kitchen. Tell me everybody that went into the kitchen? A Well, my daughter Lizzie, and Gladys, and my husband and myself; we went into the kitchen.

Q And then you conversed; did you? Yes or no? Nothing more than that? A Well my daughter asked --

Q Now, now, please. You have said, "My daughter asked." Did she open her mouth and say words? A Yes; she asked him to go for a pint of beer.

Q Now, don't give me anything that was said. Did she open her mouth, and say anything, when you went into the kitchen?

A Well, she asked Mr. Lefevre--

Q Now, if you don't understand my question, please say so? A Well, then, she didn't say anything.

Q Did any one go out of the room? A My husband.

Q Had anybody said anything to him, before he went out of the room? A Yes, sir.

Q Who said something to him? A Well, Lizzie Garry.

Q Well, then, there had been some talk there; hadn't there?

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A Yes, sir.

Q She had opened her head, and uttered some words?

A Yes, sir..

Q And then your husband went out of the room? A Yes, sir.

Q Now was anything else said by anybody, before your husband went out of the room? A No, sir.

Q And then your husband got up, and left the room; did he? A Yes, sir.

Q And what, if anything, did he take with him? A He took a can.

Q And what else, if anything, did he take with him? A He took a quarter.

Q A quarter of a dollar, do you mean? A Yes, sir.

Q United States money? A Yes, sir.

Q And then he disappeared, did he, your husband, went away? A Yes, sir.

Q Out of your sight and out of the house? A Yes, sir.

Q Now did your husband come back again? A Yes, sir.

Q About how long after your husband had gone out, did he come back? A About five or ten minutes.

Q And what time was it that your husband went out of the apartment, out of Lizzie's apartment? A It was around twelve, or a little after twelve.

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Q And, when your husband came back, did he say anything? Yes or no? A Yes, sir.

Q And, when your husband came back, did he have the can with him that he took out, if you know? A Yes.

Q And, when your husband came back, was the can empty, or was it full? A It was empty.

Q And did your husband say anything about the can? Yes or no? A Yes, sir.

Q But, as matter of fact, was there any beer? A No, sir.

Q And it was after twelve o'clock? A Yes, sir.

Q Very well. Now, Mary, we will go back a minute. Just after your husband went out, did you have -- did you and Lizzie talk? A Yes, sir.

Q And, after you had talked, did you see this defendant? A Yes, sir.

Q And where did you see this defendant? A He came out of the room.

Q Out of what room? A From his bed room, into the kitchen.

Q Ah, then, you saw him in the kitchen? A Yes, sir.

Q Now who was there, when the defendant came out from the direction of his bed room into the kitchen? A My daughter Lizzie, Gladys and myself.

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Q Now, just tell the conversation, what it was, that occurred between yourself and Lizzie and the defendant, if any conversation took place? A My daughter said to Otto, "How is it that, whenever papa or mamma comes here, you always go into bed again?" She says, "Why are you so ignorant?" And I said to her, "Lizzie, if he is that ignorant, let him stay in," and he said, "No, mother, I am not ignorant, but I am going fishing to-morrow, and I want all the sleep I can get."

And, with that, my husband opened the door and came in; and he said, "Oh, for pity's sake, what are you always quarrelling for? Cut it out," and then sat down in the kitchen.

And he says, "Well, Lizzie, it's after twelve, and I ain't known in the neighborhood, and I couldn't get any beer," and she said, "Well, all right papa," and she turned to this man, and she said --

Q Turned to which man? A Otto Lefevre.

Q Who is she? A Lizzie. She turned to Lefevre, and she said, "Otto, if you are going to beat me, to-night, as you did last Saturday night, I am going home with papa and mamma."

And my husband was a little deaf, my husband was a little hard of hearing, and he said, "What was that, Lizzie?" And she said, "Papa, I just said to Otto, that if he was going to beat me, to-night, as he did, last Saturday night, I am going home with you and mamma," and he said, "All right, Lizzie. Put

on your hat and coat and come home." And Lefevre made reply, and he said, "I'm damned if she will. I'm taking care of her", and my husband said, "Well, what do you want to beat her for?" And he said, "None of your damned business."

Q Who said that, "It is none of your damned business"?

A Lefevre.

Q To whom? A To my husband. My husband said, "Why wouldn't it be my business, Otto? I've taken care of that girl since she has been ten years of age," and my husband stood up, and, with that, this mah lifted his hand,--

Q Who? A Otto Lefevre. Lifted his hand, and struck my husband a blow on the side of the head, and knocked him down on the floor; and, as my husband was struggling to get to his feet, Otto Lefevre jumped over to the stove, and got an iron, and just as my husband was struggling to his feet, he gave it to him on the top of the head, and my husband fell in a heap, at my feet (illustrating).

Q And where were Lizzie and Gladys at that time?

A As he struck my husband the blow, Lizzie grabbed her little daughter, by the hand, and she dragged her out into the hall, and she screamed, "Come, mama, come papa," but my husband was lying on the floor, at the time.

Q Well, was that before the defendant here had struck him over the head? A No, sir, that was when he struck him with his fist.

Q And that was before the defendant had struck your husband with the flat iron? A Yes, sir; with the iron.

Q Now, Mary, just look at this article here, please,

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People's Exhibit 1. Did you ever see that article before?
Take it? A Yes, sir.

Q Well where did you see that article? A I seen it
on the 29th of April.

Q And is this the article that this defendant struck
your husband over the head with? A Yes, sir.

Q Well, now, Mary, when the defendant had struck your
husband with that fkat iron, People's Exhibit 1, did you see
anything on your husband's head? A Yes. As he fell to
the floor, the blood was streaming from his head; and I
screamed, and I went to the side of the --

Q Now, wait a minute, please. Now, when your husband
came back with the empty can, and said it was after 12 o'clock,
and he wasn't known in the neighborhood, etc., as you have tes-
tified, he came back in the kitchen? A Yes, sir.

Q Now where did he sit, or what did he do? Excuse me.
I withdraw that. What did he do, when he came back in the
kitchen? A He just merely left the can on the tubs, and sat
down on a chair.

Q Now, sat down on a chair. About where in the kitchen
did he sit? A About in the centre of the kitchen.

Q And there is a gas jet in the kitchen; is there not?
A Yes, sir.

Q And about where, relatively to the gas jet, did your

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husband sit down, when he came in? A Just about directly under it.

Q And where was the defendant when your husband was sitting there, nearly under the gas jet? A He was standing between -- standing in the kitchen, near that little private hall door.

Q Now where did your husband fall, when the defendant struck him, as you say, with his fist? A He fell just at the dumbwaiter, his head in near the tubs.

Q And then, when he arose, and the defendant struck him over the head with People's Exhibit 1, where did he fall, the second time? A He fell just right in the same place.

Q Now, Mary, at any time on the night of the 28th, or the morning of the 29th of April, 1906, did you see any weapon of any description in your husband's, Michael J. Minnough's hands? A No, sir.

Q At any time on that night of the 28th of April, 1906, or the morning of the 29th of April, 1906, in the premises 1708 Park Avenue, fourth floor, your daughter's apartments, at any time, did your husband have that article, People's Exhibit 1, in his hands? A No, sir.

Q Did you? A No, sir.

Q Now, after the deceased had been struck a second time by the defendant, as you say, and the second time with People's

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Exhibit 1, he fell where, again? A His body fell at the dumbwaiter, and his head fell in near the tubs.

Q And what did you see on his head, at the time?

A The blood was streaming from the top of his head.

Q And then what did you do, after your husband had fallen there? A I rushed to the stove; I screamed; I said, "Oh, you brute, you have murdered my husband," and I rushed to the side of the stove, and I got the broom.

Q Now, you rushed to the side of the stove? A Yes, sir.

Q Now look at this diagram again. Now, do you see this yellow place, marked "stove"? A Yes, sir.

Q Now, looking at that, will you state where the stove was in the kitchen, on the night in question? A Just right close to the little hallway.

Q Well is that the place where it was, practically (indicating)? A Well, yes.

Q And where was it that this defendant seized the flat iron? A He came from here, and rushed over to the stove, and grabbed the iron up in his hand (illustrating).

Q Well, he grabbed it off the stove? A Yes, sir.

Q And then you say you ran by the stove, and got a broom? A Yes, sir.

Q After your husband was on the floor? A Yes, sir.

Q And blood was streaming from his head? A Yes, sir.

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Q Now, which side of the stove did you get the broom from? A This side here (indicating).

Q That's the side toward the bath room? A Yes; toward the bath room.

Q And what kind of a broom was it? A A general house broom.

Q An ordinary house broom? A Yes, sir.

Q And what did you do with the broom? A Well, I got the broom, and started to beat him with the broom.

Q Beat who? A Otto Lefevre.

Q Now what did the defendant do, when you got the broom, and started after him? A He got out into the little hall, and I beat him in the hall with the broom, and I was beating him with the broom, when the woman, my daughter, came rushing in, Lizzie Garry came rushing in.

Q Lizzie Garry came rushing in from where? A From the outside hall.

Q Now, through what door? A From the door leading into the little hall, leading into the kitchen.

Q And you were in that little hall, at the time?

A I was in the kitchen, and he was in the little hall.

Q Well, now, when your daughter came in -- up to the time that your daughter came in, had you hit the defendant with the broom? A Yes, I did; and, as she came in, she got struck

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