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16.

Mr. Rosecrans: Are you ready?

Mr. Wilentz: Yes, I am ready.

BRUNO RICHARD HAUPTMANN resumed the stand.

Cross-Examination (continued) by Mr. Wilentz:

Q. Mr. Defendant, have you ever been up in an aeroplane? A. Yes, one time.

Q. Where? A. Los Angeles.

Q. Was that on the trip that you took to California? A. That is right.

Q. Tell me something about that trip: you left in July, 1931, did you not? A. Yes.

Q. And you went by automobile? A. Yes.

Q. It was a pleasure trip, was it? A. Yes.

Q. Who went with you, Kloeppenburg and your wife? A. My wife and Mr. Kloeppenburg.

Q. How many times did you go up in the airplane? A. One time.

Q. What did you pay to go up? A. I can't remember what we paid for it.

Q. Did you cross any boats? A. No, we wasn't over the water at all.

Q. Did you hire a motor boat any place? A. No. I can't remember.

Q. Well now, just think for a minute. Were you on a boat anywhere at all on that trip? Take your time and think it over. A. I can't remember.

Q. You can't remember? A. (Shaking head negatively.)

Q. Do you remember paying 75 cents apiece for a ride on a boat, you, for yourself 75 cents, for Mrs. Hauptmann 75 cents and for Mr. Kloeppenburg? A. (No answer.)

Q. Altogether $2.25? A. No, can't remember.

Q. You can't remember? A. No.

Q. You wouldn't say that you didn't will you? A. Well, I can't remember.

Q. You can't remember. You kept an account of your expenditures and expenses on this trip to California, did you not? A. Yes, we did.

Q. Every cent that you spent, you accounted for in a book, isn't that so, groceries and everything? A. Yes.

Q. And from the very day that you started to earn any money in this country, you kept books of accounts, didn't you? A. Not the first day, I was here about, I guess I started a year or two years after.

Q. Once you started to keep an account, you kept every item listed in your books, in your accounts, didn't you? A. No, not every item.

Q. Well, you kept the money that your wife earned and you kept an account of the money that you earned, did you not? A. Yes.

Q. You kept account of the moneys that you loaned to people and you kept an account of the moneys that you spent? A. Yes.

Q. You kept an account every year of how much money you and your wife were worth, did you not? A. Yes.

Q. At the end of the year, if you had stocks and if you had moneys and if you had other things of value, if people owed you money, you kept an account of it? A. Yes.

Q. Did you not? You have always been very careful about figures, have you not? A. Well, I say so, yes.

Q. Yes. You have always been very careful about money too, haven't you? A. Yes.

Q. I mean, you have tried to save money. A. Of course.

Q. You have tried to accumulate money and you have saved it in order to take care of yourself and your family, I suppose. A. Yes.

Q. And you made a real hard effort to do it, too; I mean, you tried, didn't you, to accumulate money. A. Yes.

Q. And you were doing it too, right along, up to about 1931, weren't you? A. Well, all the time.

Q. Yes. A. Up to the present time.

Q. But in 1931, as the result of the gambling in the stock market, you lost some money, didn't you? A. I lost money in 1930.

Q. 1930? A. Yes.

Q. So that getting back to the books again and the books of account again, you say you kept your accounts, I suppose when you put the figures in the books that you put the correct figures in, didn't you? A. Well, I saved about every week, about ten dollars.

Q. No. Never mind; we will get to that. A. I did not put—

Q. No. Just one minute now. You just answer the question. You see, you know what I am going to ask you, but I will come to that later. What I asked you was, did you, when you put the figures in the book, did you put correct figures in? Were they truthful figures; were they honest figures when you put it in the book, in your books? A. You mean—

Q. When you wrote in the book, the books that you kept, we were just talking about the books that you had; you said you kept an account of your expenses and your income. The figures that you put and wrote in those books, were they honest figures, were they correct figures, were they true figures? A. I said he was, them figures were true, but I will —left out some of it.

Q. Well then, you mean they weren't true? A. That doesn't mean the figure weren't true.

Q. Let me ask you: Supposing you put $5,000 in stocks, would that be correct, if you put it in the book? Would it be correct? A. It would be correct.

Q. If you said $500 in the bank, would it be correct, if you had that in the book in your own handwriting? A. Yes.

Q. If you said John Jones owed you $150, would that be correct? A. Yes.

Q. If you put in the book that you had $100 home, would that be correct? A. Yes.

Q. So that the figures in the book, whatever the figures are in those books, they are correct, honest and true, isn't that right? A. Yes.

Q. All right. Now, you don't want to change that, Mr. Hauptmann, do you, your testimony now, what you are just telling me now about the figures in your book? You are willing to stand on that? A. I stand on that.

Q. That when you wrote into your own books in your own hand, you didn't try to fool anybody but you were putting the truth in there? A. Yes.

Q. All right. A. But there is only one thing I did not put—

Q. No "buts." Is it the truth—

Mr. Fisher: I submit, your Honor, he is entitled to answer that. He has tried three times to explain that situation and the Attorney General stops him each time. He is entitled to make a full answer and explanation, sir.

Mr. Wilentz: The truth doesn't need any explanation.

Mr. Fisher: He says "I put it in the book but—"

Mr. Wilentz: Just a minute now.

The Court: Well, I think he had better be permitted to make his explanation now, if he has any.

Q. All right; but what? A. I saved money besides that my wife should not know. I put nothing in the book.

Q. Oh. In other words, you were hiding it on your wife. A. (Witness nods.)

Q. Well, you were hiding a lot of things on your wife, weren't you? A. No, sir. It is only the money I kept.

Mr. Fisher: I object to this.

The Court: Why do you object?

Mr. Fisher: Because it is improper cross-examination "you are hiding a lot of things from your wife."

The Court: Well, you insisted upon his making that explanation, he made it and now I think the Attorney General has a right to cross-examine further about it.

Q. You were hiding a lot of things on your wife, weren't you? A. Only the money question.

Q. When is the first time you met Mrs. Henckle? A. Summertime, '32.

Q. Where? A. Hunters Island.

Q. Bathing? A. Oh, I can't recall the first day how it happens.

Q. Well, was it while you were out bathing? I am not asking you the first day. A. I was out bathing.

Q. You were out bathing. That is the first time. A. Yes.

Q. Was Mr. Henckle there when you met her? A. (No answer.)

Q. What are you thinking about? You know whether he was or not. A. I guess her sister was there.

Q. I am asking you about Mr. Henckle, not her sister. A. I can't remember if he was there.

Q. Well, don't you know that two weeks later she introduced you to her husband when you went up to the house? A. I can't remember this, when she introduced me.

Q. Can't you remember whether or not Mr. Henckle met you at Hunters Island and two weeks later, or some time later, she introduced you to her husband? A. I can't remember the date, how long afterward she introduced him.

Q. Well, forget the two weeks. I didn't mean to impress the time. A. Yes.

Q. But it was after you met Mrs. Henckle at Hunters Island that you met her husband at his home? A. I guess that is correct.

Q. Who introduced you to Mrs. Henckle: nobody? A. Well, it doesn't need much introducing out there.

Q. I see. A. It was—

Q. That was when your wife was away, wasn't it, she was in Europe then? A. Yes, that is right.

Q. All right. Now we will get back to the accounts again. So the books were absolutely accurate except where you tried to keep it away from your wife? A. Yes.

Q. You did say before that when you put $5,000 in stocks, that was right, you didn't try to keep that away? A. I didn't put $5,000 in stocks.

Q. Whatever the correct amount was in the books, you had it in there and you didn't try to fool her about that? A. No; did not.

Q. Let me ask you: when you found $14,000 or more in gold, how did you feel, did you cry? Did you laugh? Were you happy or where you sad? A. I was excited.

Q. You were excited? A. I was.

Q. Did you say anything, did you holler out, "Anna, look what I found," or anything like that? A. No, I did not.

Q. Did you tell your wife? A. I did not.

Q. You didn't tell your wife? A. No.

Q. Have you ever seen $14,000 in gold before in your life? A. No, I did not.

Q. Well, when you say you were excited, what do you mean you were excited? A. Well, I guess everybody is excited if he finds $14,000.

Q. Yes. A. Like dat.

Q. Well, you are not very excited now, are you? A. Why should I?

Q. No, it is quite a joke with you, isn't it? A. No, it is not a joke, I am very earnest.

Q. Oh, I see, you are very earnest. Were you earnest with your wife when you found the $14,000? A. That has got nothing to do with my wife.

Q. Were you honest with your wife when you found this money? A. I guess I was honest.

Q. You were earnest with her? A. I guess.

Q. Didn't she work and slave in a bakery and bring to you when you and she got married, her earnings and her savings? A. That has got nothing to do with them $14,000 at all.

Q. Didn't she do that? Please answer. A. Yes.

Q. Didn't she buy the furniture for you and herself when you started your home? A. This was my wife's money, and my money.

Q. For the furniture; didn't she pay every dollar for the furniture? A. That comes from our bank account.

Q. Comes from your bank account. She gave you every dollar she had in the world, didn't she? A. So did I.

Q. Yes. A. Except these $14,000.

Q. You were partners, weren't you, both working hard? A. Yes.

Q. But when you found $14,000 in gold, no more partnership with the wife? A. Absolutely not, why should I make my wife excited about it?

Q. Oh, I see. Well now, let's see. When you were keeping your books and you were cheating her with the books of accounts, and you wouldn't tell her about your moneys, why did you stop her from knowing about that? Why did you hide that? A. Should it be a pleasant surprise for her sometimes.

Q. I see. You were keeping a surprise for her? A. Yes, because my attention was to pay her house, build her a house sometimes.

Q. Do you know Mr. Brent, stock exchange business? You met Mr. Brent in your stock exchange operations, didn't you? A. Brent?

Q. Brent, yes. Isn't he the man that introduced you to the stock broker or something like that? A. What is his first name?

Q. I don't know. I will try to find out. What is Mr. Brent's first name (addressing associate counsel)? Well, you remember Brent's wife—she is the lady that introduced you to the brokerage firm, I think, Steiner Rouse, to E. A. Pierce & Company, I think, one of your accounts. Do you remember the lady that introduced you to the stock broker? A. Oh, yes, that is right.

Q. That is her husband. A. That is right.

Q. Do you know him? A. Yes, Always—

Q. Do you remember saying to Mr. Brent, "Mr. Brent, if my wife ever asks you where I was some night tell her I was with you." A. No.

Q. You didn't do that? A. No.

Q. You only kept the money business away from her, is that it? A. (No answer.)

Q. Well, anyway, getting back to your accounts again, you were telling us the other day, when I showed you a little book with some words in it, that "well, the book is maybe eight years old," and maybe you have learned since that time; something like that. Do you remember that? A. Yes.

Q. Tell me, when you came to Flemington, New Jersey, and you got into the jail here, you knew something about ransom notes being written to Colonel Lindbergh, you knew that was one of the things in the case, didn't you? A. It is only what I hear in The Bronx, Bronx courtroom.

Q. Yes. Did you send out for a German-American dictionary while you were here? A. Yes.

Q. To study up the correct spelling of the words? A. No, sir.

Mr. Wilentz: Where is that dictionary?

(Book produced by counsel for State.)

Q. Is this the dictionary that you sent for, and is it your dictionary (showing to witness)? A. I guess that is the dictionary I got over here.

Mr. Wilentz: I offer it.

Q. Is that where you learned to spell the word "signature" correctly? A. No, sir.

Mr. Pope: We object to the introduction of the book. It is merely a book which the defendant had sent in to him after he was incarcerated. It certainly can have no effect upon this case. Perhaps he had a reason for sending

for it; but it is in no way connected with the case; it is entirely too remote.

The Court: Well, I am inclined to think, in view of the state of the proof, that it is evidential.

Mr. Pope: The book itself?

The Court: Yes.

Mr. Pope: We don't see what it can prove, but if that is your Honor's ruling, of course, we must bow to it.

The Reporter: S-255.

(The dictionary was received in evidence and marked State Exhibit S-255.)

The Court: I suppose the book speaks for itself, and it may contain matters that are pertinent.

Mr. Attorney General, what is your theory about the admissibility of the book?

Mr. Wilentz: Why, if your Honor please, I take it that there isn't any great importance to it. I believe there is no question about its admissibility; and the reason I believe it is admissible is because counsel told this gentleman about his spelling, with particular reference to words involved in these ransom notes, and I think it is very material to show that he learned how to spell these things as the result of a dictionary in his possession since his arrest which he has already admitted so far as the possession of the dictionary.

Mr. Pope: That is not the way to prove he learned to spell.

Mr. Wilentz: He says so himself.

Mr. Pope: I suppose almost every ordinary word is to be found in a dictionary.

The Court: Well, I have already indicated that I think it is admissible.

Mr. Pope: May we have an exception?

The Court: Yes, take your exception.

(Exception allowed, and the same is signed and sealed accordingly.)

(s. s.) THOMAS W. TRENCHARD,
Judge.

The Witness: Do you want me to explain this dictionary book?

The Court: The lawyers will examine you. Your counsel after a while will enable you to make any explanations you have to make.

The Witness: Thank you, your Honor.

By Mr. Wilentz:

Q. Mr. Defendant, I want to show you this word "sing" and "singnature" on this Exhibit No. S-109. You see it, do you not? A. I see it.

Q. You remember the testimony of the handwriting experts about the "n" being before the "g," you remember that? A. I can—oh, yes, I do.

Q. That is a habit of yours, isn't it, putting in "n's" where they don't belong? A. No.

Q. You do it often, don't you? A. I can't remember. I don't remember doing it at all.

Q. You don't remember doing it at all? A. No.

Q. Would you be surprised to find out that you had done it? Well, take a look at this just for a minute and see if this is yours (handing the witness a paper). Is that your check? You ought to be able to tell whether it is your check by this time. A. Yes, that is my check.

Q. It is. Let me see it a minute. Have you had a good look at it? A. No.

Q. Then keep looking at it. Is that your check? A. Yes.

Mr. Wilentz: Please mark it for identification.

(The check was marked S-256 for identification.)

Q. How much is the amount of that check? A. $74.

Q. $74? A. Yes.

Q. How do you spell "seventy"? A. "Seventy?" I guess—

Q. Well, read it from here. You wrote it: Seventy. Read it. Nice and loud, please. A. That is—

Q. Loud, now. A. S-e—

Q. Loud, now. S-e—what? A. S-e-n—

Q. S-e-n? A. Yes.

Q. Senvety? A. Senvety, yes.

Q. You have an "n" in there, haven't you? A. Yes.

Q. All right. Now let me have it, please. The same "n" as you have in "singnature." Isn't that right?

Mr. Pope: Object to the question. That is not true. I object to that question. How he spells "singnature" and how he spells "seventy" are two entirely different things. Whether the "n" is before or in the wrong place or not the check itself will show.

The Court: Oh, I think it is legitimate cross-examination.

Mr. Pope: Yes, but he is asking the witness if it isn't the same "n" that he has in "singnature."

Mr. Wilentz: That he put in the "singnature," if I haven't got that it, I want it in.

Mr. Pope: Wait a minute. If he wrote the word "singnature," manifestly it isn't the same "n," that is on the check.

Mr. Wilentz: I withdraw—

The Court: No. No, I suppose the question better be modified in that respect and, if so modified, I think it is permissible.

By Mr. Wilentz:

Q. Didn't you place the "n" in "senventy" just like you placed the "n" in "singnature" and for the same reason?

Mr. Pope: Now, I object to the question because the witness has testified that he did not place the "n" in "singnature," that he did not write the word "singnature," that he did not

write the ransom note. If he wants to ask him if he placed the "n" in "seventy," where it appears on that check, we think that is a perfectly proper question, but "Didn't you place the 'n' in 'seventy' the same as you did in 'singnature'," is either a catch question or one which is manifestly improper.

The Court: The objection is overruled. You may have your exception.

Mr. Pope: May we have an exception?

The Court: You may have your exception.

(Exception allowed and same is signed and sealed accordingly.)

(s. s.) THOMAS W. TRENCHARD,
Judge.

By Mr. Wilentz:

Q. Answer the question, sir. A. What is the question.

Q. (Question read as follows: "Q. Didn't you place the 'n' in 'senventy' just like you placed the 'n' in 'singnature' and for the same reason?") A. No.

Q. All right. Now take a look at this exhibit. You see that "N" in "New York"? A. Yes.

Q. And that "N" in your handwriting? A. Yes.

Q. Did the police tell you to put that little hook up on top, or did you do it yourself? A. I do it myself; but I say there is a lot difference between them two N's.

Q. There is a lot of difference between that hook up there? A. Hook up there like that.

Q. That "N" and that "N"? A. Yes.

Q. There is a lot of difference between the two? A. I guess there is a whole lot.

Q. A whole lot. Do you see the "York"? A. Yes.

Q. That York (indicating). A. (No answer.)

Q. Do you see that "York" in the ransom notes and papers (indicating)? A. I see it.

Q. Now take a look at this book and see if this is yours, right there, that page. Don't turn the page; just look at that page. A. No, no, I won't turn it.

Q. All right. A. (After examining page) Yes, I wrote that.

Q. All of it. Now take this pencil and put a line under the New York, the first New York you have got there; just underneath it. A. (The witness complied.)

Q. Then take it again and put it under the next New York. A. (The witness complied.)

Q. Then under the next one. A. (The witness complied.)

Q. And under the next one. Right here. A. (The witness complied.)

Q. Now those lines are your lines, aren't they, under New York? A. Yes.

Mr. Large: Refer to that.

Mr. Wilentz: Referring to exhibit—just put the stamp on that page.

The Reporter: In evidence?

Mr. Wilentz: Well, mark it for identification, for the time being.

The Reporter: S-257 for identification.

Mr. Wilentz: Well, I will offer that in evidence rather, that page.

The Court: Any objection to that?

Mr. Pope: Well, we would like to see it.

Mr. Wilentz: Just that page (handing to counsel for defendant).

(Counsel confer.)

Mr. Wilentz: Will you get the "gh."?

Mr. Peacock: All right (placing another photographic enlargement on wall to the right of jury).

Mr. Wilentz: There is apparently no objection.

The Court: If there is no objection, it will be admitted.

The Reporter: Exhibit S-257.

(Page of memorandum book received in evidence and marked State's Exhibit S-257.)

Mr. Wilentz: Now just leave that "New York" there for a minute. May I ask the Court's indulgence for a minute, until I exhibit these "New Yorks" to the jury?

The Court: Yes.

Mr. Wilentz: It will take just a second. And I want each juror to see it.

The Court: I think the air is very bad in this court room. I wonder if we couldn't have a litle air from the windows, not too much, not enough to make a draft.

Mr. Wilentz: I ask the jury to look at this "New York" on the sleeping garment (indicating the chart), and every one of those four "New York's" in that book.

Mr. Pope: We object to the Attorney General standing up there and testifying to the jury.

Mr. Wilentz: Let's read it and see how much testimony there is.

(The reporter read as follows: "Mr. Wilentz: I ask the jury to look at this 'New York' on the sleeping garment (indicating the chart), and every one of those four 'New York's' in that book.")

The Court: What is wrong about that?

Mr. Pope: We think this is not the proper time for argument. It might be perfectly proper for the Attorney General to take the charts that are in evidence and exhibit the book to the jury at the time of the argument, but not during the examination of the witness.

The Court: Well, I have always supposed that when a book is admitted in evidence it is proper for counsel to call the attention of the jury to the fact that they would like for them to read the book.

Mr. Pope: That is all right. There is no objection to that.

The Court: Apparently that is what is being done here.

Mr. Pope: He is asking them to make a comparison between something that appears on the chart and something that is in the book.

The Court: Well, to that extent your objection is sustained.

Q. Will you take a look at page 5 and tell me whether or not that is your writing—page 5. A. (Examining book) It is.

Q. It is. A. (Nods affirmatively.)

Q. It is a little weak. I want you to say it so the jury and stenographer can hear it. A. It is.

Mr. Wilentz: I offer page 5 of this book in evidence. (Conferred with defense counsel.) I will offer the whole book.

The Court: Is there any objection? It will be admitted.

(Book received in evidence and marked State Exhibit S-258.)

Q. Were you in court when—Well, you were in court, weren't you, when the handwriting experts were testifying about the peculiarities in the ransom notes? A. Yes.

Q. You were here, weren't you? A. Yes.

Q. Do you remember their testimony about the g's and the h's being transposed in "right" and

"light" and things like that? A. Gee, there were so many talking, I really can't remember.

Q. You can't really remember? A. (Nods.)

Q. Well, I guess you are right about that. I want to call to your attention on Exhibit 108 this word "light" l-i-h-g-t. Do you remember that? A. I see it.

Q. You see it. A. Yes.

Q. Then on Exhibit—I can't tell the number here, maybe it is written on the back.

Mr. Wilentz: Mr. Stenographer, will you please come over here and give us some aid?

The Reporter: It is on the bottom, I think.

Mr. Wilentz: Yes, S-134.

Q. I want to point out to you another thing, r-i-g-t-h, and n-i-h-g-t, do you see those? A. Yes.

Q. This is your standard writing? A. Yes.

Q. And this is your disputed writing? A. Yes.

Q. And the other one I just indicated to you, you see those, don't you? A. I see 'em.

Q. One in your standard writing and two in your disputed writings. Now, you had a habit of doing that, didn't you? A. A habit.

Q. Yes, a habit of making mistakes with "night" and "right" and "tight" and anything that had "gh" and "hg" in it? A. Well, I say maybe I made mistakes, I was not so—

Q. That was one peculiarity, you didn't make any mistakes with "signature," you could spell that, couldn't you? A. You see I am not so very perfect in writing English.

Q. Yes, but you could spell "signature" without the "n," couldn't you? A. Sure I can.

Q. But little words here like "right" and "night" and "tight," you didn't have any trouble with those, did you? A. That is what I say, I write really very, very seldom.

Q. Very seldom. A. Yes.

Q. As a matter of fact, you write very, very often, don't you? You do a lot of writing, don't you? A. No, sir.

Q. You are quite a bookkeeper, you keep a big set of books, don't you? A. That is only—

Q. You write long letters, too, don't you? A. That is what I say, very, very seldom.

Q. Well, this page that you said is in your handwriting, you bought some Curtiss-Wright Aviation stock. A. Yes.

Q. Spell Wright, as you have got it in here, so that the jury will know just how you wrote it. A. That is h-g-t.

Q. Never ming the h-g-t—start at the "W." A. W-r-i-h-g-t.

Q. W-r-i-h-g-t? A. Yes.

Q. Just like you have the h-g-t here in light, isn't that right? A. Yes, that is right.

Q. Just like in the ransom notes, h-g-t in light, isn't that right?

Mr. Pope: We object to the question. We object to the question and we submit that this witness cannot be compelled to look at any enlarged photograph of any word either in the so-called ransom note or in the standard handwritings, and ask to make any comparison. He is not a handwriting expert. The mere fact that in this book he spelled it h-g-t is perfectly proper, we don't object to that; but he can't ask this witness to make comparisons with something else which he did not make. He did not make these photographs.

The Court: This photograph is in evidence, is it not?

Mr. Pope: Yes, but not made by him.

The Court: No. I understand that.

Mr. Pope: And he is not a handwriting expert.

The Court: Well, now, what is the question?

Mr. Wilentz: It has been answered, if your Honor please.

The Court: Has it?

Mr. Wilentz: Yes. Shall I proceed?

The Court: I have nothing to add.

Mr. Pope: Well, we didn't hear the answer. If it was answered, it was answered while the objection was being made.

The Court: Let the answer be given by the reporter.

(Question and answer read as follows:
"Q. Just like you have the h-g-t here in 'night,' isn't that right? A. Yes, that is right.
"Q. Just like in the ransom note h-g-t in 'light,' isn't that right?") (No answer to the last question.)

Mr. Wilentz: No answer?

The Court: Do you press for an answer to the latter question?

Mr. Wilentz: No, if your Honor please.

By Mr. Wilentz:

Q. In 1932 and particularly in March, 1932, you had a German-American dictionary in your home, didn't you? A. Had it home for long years.

Q. For long years. Take a look at these (handing pamphlets to witness) and see if they are your dictionaries. A. Sorry; isn't mine.

Q. Isn't yours? A. No.

Q. What kind of dictionary did you have? A. About as thick as that (indicating with fingers).

Q. As thick as that, but not these words, these printed words, just the plain dictionary? A. I never saw them (pamphlets).

Q. You never saw them? A. Never saw them.

Q. They don't come from your home? A. No, sir; I never saw them.

Q. All right. If they are not, we will just put them away.

Mr. Wilentz: Before we do, I will ask that they be marked for identification as one exhibit.

(Pamphlets were marked State Exhibit S-259 for Identification.)

Mr. Wilentz: Have you got it, sir?

The Reporter: Yes.

Q. Did you tell me you started keeping accounts —in what year? A. What kind of account you mean?

Q. Your accounts, of your financial transactions? A. I guess it is dating back, about 1925. I am not quite sure. I can't remember.

Q. But the account of the trip to California was in 1931, isn't that right? A. Yes. This account I keep book of it, because Mr. Kloeppenstock, Kloeppenburg, went along, and the expenses was split. That is the reason—

Q. That is why you kept— A. Kept account.

Q. An account of your expenses on your trip to California? A. That is right.

Q. And you told us the other day that, well, the "boad" may have been written in there eight years ago or six years ago or some other time? A. I really didn't read the book. I only got my eye on the word "boad."

Q. Take a look at S-252 for identification, that is, that page. Are those the expenses on your trip, part of the expenses on your trip to California? A. Well then, I have to see the whole book, in the front.

Q. Let's see whether I can find— A. I can't make it out without it.

Q. We will see in a minute now. Do you see that $12 for airplane? A. Yes, I see.

Q. Was that for the California trip? A. Let me see. Let me read the whole page.

Q. Yes, look at the whole page. A. That is the trip to California.

Q. Do you see $65.73 carried over from the other page? A. Yes.

Q. Well, then, look at that page, where the $65.73 is, is that the trip to California, the expenses? A. Yes.

Q. Now, you see there is $46.28 carried over from the preceding page. A. Yes.

Q. Now, is this the preceding page, $46.28? A. Yes.

Q. Then you see from the preceding page, $28.89. A. Yes.

Q. That is still the trip, isn't it? A. Still the trip.

Q. Now, this is the page for $228.89, isn't it? A. Yes.

Q. From the page before it was carried, $14.83. A. Yes.

Q. Do you see that? A. Yes.

Q. And this is the $14.83, isn't it? A. Yes.

Q. That is the page with the "boad" on it? A. Yes, just let me see the book.

Q. Yes. I just want you to look at the pages, that is only one page actually.

Mr. Pope: If the witness wants to see the book I think he has a right to see the book.

Mr. Wilentz: Well, if you want the book to go in evidence, I will let him see the whole book.

Mr. Pope: The witness says, "Let me see the book" and I think he has a right to see the book before he answers the question.

Mr. Wilentz: I object to him seeing the book, if your Honor please, I don't want the gentleman to anticipate some later questions at this time. He will see the book, he may see the pages.

The Court: Well, he may be shown a certain page of the book and asked if this is his handwriting.

Mr. Wilentz: That is right.

A. Can I turn one leaf over.

Q. Yes. You can turn one leaf over. That is the continuation of the trip, that is the beginning of the trip, isn't it? A. Yah, that is beginning of the trip.

Q. All right, now. Just one minute now. Do you want to say something about "boad"? A. Yes.

Q. All right, we will come to that in a minute, but that is the page, that is the page of the expenses of your trip to California. A. Yes.

Q. That is the beginning of the trip. A. That is the beginning.

Q. It must have been later than July 5th, 1931, isn't that right? A. That is right.

Q. So that this book, this page particularly, January, marked S-252 for identification, that page was written after July 5th, 1931, isn't that right? A. That is right.

Q. So it wasn't six years ago, was it? A. No, yesterday I didn't, only looked on the word "boad" nothing else.

Q. That is right. And as soon as you saw "boad" you thought it was six or eight years ago? A. Yes, I did.

Q. That is right. Now, you see there is no damage, we have straightened it out, it was July, 1931, some time. A. Oh, absolutely not.

Q. July, 1931, after July, 1931, wasn't it? A. After 5th July '31.

Q. 1931.

Mr. Wilentz: Now, I offer this page S-252, marked for identification in evidence, that one page for the time being.

While counsel is looking at that—

By Mr. Wilentz:

Q. Will you spell "signature" for me again, or rather, "signature"? A. S-i-g-n—

Q. It is quite funny, isn't it, that word? A. No, that is correct, I guess.

Q. I see: S-i-g-n—? A. —n-a-t-u-r-e.

Mr. Peacock: Give the answer again.

The Reporter: S-i-g-n-a-t-u-r-e.

The Court: Any objection to the writing being admitted in evidence?

Mr. Pope: No. This is not the time to put it in; but let it go.

The Reporter: S-259.

The Court: It may be admitted.

(Book received in evidence and marked State Exhibit 259.)

Q. When is the first time that you heard about Colonel Lindbergh, that you knew there was such a person living as Colonel Lindbergh? A. Well, right after his flight to France.

Q. You remember that, don't you? How do you say "Colonel Lindbergh"? Will you pronounce it for me, please. A. Linborg.

Q. Yes. Say it "Mr. Colonel Lindbergh." A. Mister Colonel Linborg?

Q. Yes. A little louder. A. Mister Colonel Lindenborg.

Q. Lindenborg? A. Linborg.

Q. You have another "n" in there, haven't you? A. No, Linborg.

Q. Lindbergh. Not Lindenbergh? A. No.

Mr. Wilentz: I want to exhibit to the jury, with the Court's permission, S-259, or page 259, and particularly the word "b-o-a-d."

Mr. Pope: We haven't any objection to the Attorney General showing page 259 to the jury and the jury determining for themselves whether that is a "d" or a "t," but we do object to the Attorney General saying b-o-a-d or calling it "boad." We are going to dispute whether that is a "d" or a "t," when it comes our time.

Mr. Wilentz: Well, that is why I am exhibiting it to the jury. The witness spelled it b-o-a-d from the book.

The Court: I see nothing irregular in the examination thus far.

Q. While the jury is looking at that, will you just take a look at that letter and keep studying it until we are ready? A. (Witness examines letter carefully.)

Q. Is that letter which I hand you your letter, written by you, the ink part? There are some pencil notations at the bottom, but the part in ink, is that yours? A. That is mine.

Q. You wrote it? A. Yes.

Q. Read it. A. "Please, will you carry on my debit—"

Q. All over again, please. A. "Dear Sir: Please, will you carry on my debit $74.89 until May 25th. By this time I will settle my debit balance from $74.89. Very truly yours, Richard Hauptmann."

Q. What date was that that you sent that? A. May 31, 1931.

Q. May 31st? A. 21st.

Q. May 21, 1931, you wrote to your broker, did you? A. Yes.

Mr. Wilentz: I offer that in evidence.

Q. The pencil writings on here "114-16 Needham Avenue" are not yours, are they? A. No.

Q. Anything in pencil is not yours, but the ink part is yours? A. Yes.

Mr. Wilentz: We offer it in evidence. Will you please show it to Mr. Pope? The photostatic copy is in evidence anyway.

By Mr. Wilentz:

Q. You wrote that letter to your broker, did you not? A. Yes.

Q. After he told you that he needed seventy-four dollars and some cents for margin to take care of your account, is that right? A. I suppose it was right.

Q. You wrote him back to wait for the seventy-four dollars twenty-eight cents for about four days until the 25th, whatever it is? A. Yes.

Q. That was in May, 1931. A. Yes.

Q. Is that right? A. Yes.

Q. Do you remember writing "Dear Sir" on that, do you not? A. Yes.

Q. And you remember writing the word "debit" on the letter. A. Yes.

Q. You know both of them have a "d" in it, "d" in "Dear" and "d" in "debit," you remember that? A. Yes.

Q. Take a look at those d's, the enlarged "D's" of the ramson note, this one, that one, the next one, (indicating on chart) the top one being on the note found in the nursery. Just look at those now.

Mr. Pope: We object to this witness being asked to look at an enlarged photographic copy of something which he did not make and to make any comparisons with any handwriting which he did make. He is not a handwriting expert.

The Court: He is not asked to make any comparisons yet. He has been asked to look at this exhibit. I see no objection to that.

Mr. Pope: I see no objection to asking him to look at the exhibit. (The letter referred to above was received in evidence and marked State's Exhibit S-260.)

Mr. Wilentz: We will get the original ransom notes.

By Mr. Wilentz:

Q. Take a look at the "d" in "debit," the capital "D" in the middle of the sentence, "debit." A. Yes, I see it.

Q. And take a look at the "d" in "Dear Sir."

Mr. Pope: Whereabouts?

The Witness: I see it.

Mr. Wilentz: In the exhibit before him, S-260.

Q. Do you see them? A. Yes.

Mr. Wilentz: Let the jury see them.

The Witness: That is a whole lot different.

Mr. Wilentz: We will let the jury decide that.

(The exhibit S-260 was displayed to the jury.)

Q. Now, you kept accounts of all of your transactions in July, 1930, did you not? A. I can't remember the day when I stopped.

Q. Why did you stop? A. I can't give any reason for it, why I stopped.

Q. When did you start again? A. Must be around 1925.

Q. When did you start again after stopping in 1930? A. (No answer.)

Q. You did start again, did you not? A. I started only on the trip to California.

Q. Well, you stopped when you came back from California, didn't you? You didn't keep any more accounts in 1931, did you? A. No, I guess there wasn't any account in '30 or '31 either.

Q. Either in '30 or '31? A. Yes.

Q. But from 1928 or '27 you kept it right up until July, 1930, didn't you? A. '29 or '30. I don't know when I stopped.

Q. And then you began again in 1932, didn't you? A. Only on brokerage accounts.

Q. Only on brokerage accounts? A. Yes.

Q. Fur accounts; how about those? A. No, did not.

Q. You didn't keep fur accounts? A. No.

Q. You didn't keep fur accounts in your book? A. I keep the little bit of it.

Q. Didn't you keep fur accounts in your books? A. I keep a little bit of fur accounts.

Q. Then, why did you say you didn't keep fur accounts? A. Well, this doesn't include all the furs, only a little bit of it.

Q. Didn't you keep an account of it, of the furs that Fisch bought and that was held between you and Fisch, the amounts, the kind of furs, the cost, the sales price? A. Part of it.

Q. Part of it? A. Part of it.

Q. Who were you hiding the rest from? A. He was keeping care of the fur account.

Q. But you kept the account, too, did you not? A. No, sir.

Q. At any rate, you kept an account in 1932 of your stocks and your furs and your moneys again, didn't you? A. Not furs.

Q. Not furs? A. Not furs, only a little bit of the furs, not quite all of it.

Q. How many pages would you say of fur accounts? A. I guess it is only one or two.

Q. From 1932 until Fisch died, only one or two pages? A. No, it is, it is only after the last time, it covers the last time for 1933, I guess.

Q. I show you Exhibit 23 and I want you to read this sentence.

Mr. Pope: Tell us what Exhibit 23 is.

Mr. Wilentz: It is one of the ransom notes.

Q. Can you read it?

Mr. Pope: I object to the question. I object to this witness being shown any document which he says is not his, does not emanate from

him, is not his handwriting. We object to his being asked to read anything like that. This is not one of his admitted handwritings he is now being shown.

The Court: What is the question, Mr. Attorney General?

Mr. Wilentz: I ask him to read a sentence in one of the ransom notes, Exhibit 23. I have a purpose for it, if your Honor please.

The Court: He may answer that question.

Mr. Pope: May we have an exception?

The Court: Yes.

(Exception allowed and same is signed and sealed accordingly.)

(s. s.) THOMAS W. TRENCHARD,
Judge.

By Mr. Wilentz:

Q. Read it. A. "The baby would be back long ago—"

Q. "You would not—" A. Oh, go farther?

Q. Yes. Further. Just the rest of the paragraph: "The baby would be back long ago—" Then go ahead. A. Well, I have to—

Q. Sure; take your time. It is hard for you to read, isn't it? A. You bet it is.

Q. All right; then take your time. A. What is this word?

Q. "Would." A. "Would"?

Q. Yes. A. "You would not get any result from police."

Q. Go ahead: "Because—" A. "Because—" what is that?
Q. "This." A. "Because this—"

Mr. Pope: No. Let him read it.

Mr. Wilentz: He asked me what that was and I said "this."

Mr. Pope: Well,—

Mr. Wilentz: If you have an objection, will you please make it to the Court, without instructing counsel?

Mr. Pope: Yes, I do.
We object to the Attorney General suggesting to the witness anything that is in it. He has asked him to read it. Now if he can read it he can read it; if he can't read it, the Attorney General can't prompt him and correct him and tell him how to read it.

The Court: Well—

Q. Please read it. A. "Because this kidnaping" —I can't make out the next, the next word.
Q. Yes. What is the next? A. "plan for a year already."
Q. Go ahead. A. "but we—" can't make out the next one.
Q. Isn't it "was"?

Mr. Pope: He says he can't make it out.

Q. Take a look at it. A. I don't know what the next word means.

Q. All right. What is the next one after that? "But we—" A. "afraid."

Q. "Afraid," yes. What is next? A. "the boy."

Q. Yes. A. "would not"

Q. Yes. A. Can't make out the next two words.

Q. "Bee," what is that? "would not bee."

Mr. Pope: He says he can't make it out.

A. I can't—

Mr. Wilentz: He doesn't need the help of counsel, if Your Honor please. This is cross-examination, and I think the interruptions are just for the purpose of suggestion.

A. The last word is "enough."

Q. That word is "strong" isn't it? Look at it; see if you can tell. "not be strong enough," isn't that what it is? A. When you tell me, I can make it out.

Q. Yes. Now you make it out. A. Yes.

Q. "Strong," "not be strong enough." A. Yes.

Q. So that you have read "the baby would be back long ago. You would not get any result from police because this kidnaping"—then a word you couldn't understand—"planned for a year already, but we was afraid the boy would not be strong enough."

Now, did you hear the testimony in court that the Lindbergh child was born in June, 1930? A. I can't remember.

Q. You can't remember. You stopped keeping accounts in July, 1930, and didn't start again until after the ransom money was paid, isn't that correct? A. I don't know when I stopped.

Q. Didn't you stop keeping these accounts as soon as you got the idea of kidnaping this child just as is

set forth in that letter? A. I never got any idea to kidnap any child.

Q. Didn't you stop keeping accounts within two weeks of the birth of the Lindbergh child, and didn't start again until a couple of months after the ransom money was paid? A. I even didn't know the Lindbergh child was born.

Q. But this is the fact about the dates, isn't it—July, 1930, to August, 1932, you kept no accounts; that's true, isn't it? A. I can't remember the day when I stopped.

Q. You can't remember the day? A. No.

Q. I want to show you a little book (presenting same to witness). It is yours, is that handwriting on that page, 1930, yours, at the top of it is the word "Anna"? A. Yes, that is mine.

Q. On the other side is the word "Richard"? A. Yes.

Q. Are those pages yours? A. Yes.

Q. Do they represent some financial account of yours and your wife? Look at the whole book, if you want. A. Yes.

Q. Start right at the first page, right up here at the beginning, and as you come to a page that is not yours, say so. A. (The witness examines the book.)

Q. Is that your handwriting? I don't want you to study all the figures, I want you to tell me if it is your handwriting. Will you please tell me if that is your handwriting on that page? A. It is.

Q. All right then, turn over. Never mind studying it, please. Now the next page? Is that your handwriting? A. It is.

Q. Is the next page your handwriting? A. It is.

Q. All right, sir. The next page? A. It is.

Q. The next page? I want you to look long enough at it to know if it is your handwriting? A. It is.

Q. All right, sir, the next page? A. It is.
Q. The next one? A. It is.
Q. The next one? A. It is.
Q. The next one? A. Wait a minute.
Q. All right, sir. A. It is.
Q. It is. If it isn't you just say so, and we will take it out. The next one? A. It is.
Q. The next one. Well, you said this one was; will you please look at the next one. A. It is.
Q. It is. The next one. A. It is.
Q. How about the next page? A. It is.
Q. The next one. A. It is.
Q. The next one, please. A. It is.
Q. The next two pages, this and that. You are not looking at this page at all. Why not look at them and see if this is your handwriting? A. Well, I am finished with that.
Q. There are only a few letters on that. Look at this, see if that is your handwriting. A. Exclusive of this.
Q. Is that not yours? Cross it out with the pencil. A. Oh, no.
Q. Is it yours? A. Yes, that is mine.
Q. All right, then; turn to the next page; is that yours? A. That is mein one.
Q. All right now. Look at this one. A. That is mine.
Q. How about this one? A. It is mein one.
Q. This one, a loose page. A. Yes, that is mein one.
Q. Is that yours too? A. Yes.
Q. How about this page? A. Belongs to me too.
Q. Is this your handwriting; is it, sir, that one page? A. Wait a minute—Yes it is.
Q. The whole page is yours, is it? A. Yes.
Q. Are you sure about it? A. (Examines page again.)

Q. You said it was. You see, I want you to be sure about it. A. I guess not the first one.

Q. You don't think that is? Take the pencil and cross out the first one you don't think is yours. A. (Witness marks on book.)

Mr. Peacock: I can't hear it.

Mr. Wilentz: He said the first one is not his.

Q. Is this yours, where the word is crossed out and is this page yours? A. Yes.

Q. The next page, that is yours? A. Yes.

Q. Two pages? A. Yes, they are mine.

Q. Is this page yours? A. Yes.

Q. The next page, is that yours, the next two pages? A. Yeah, they are mine.

Q. The next page, is that yours? A. This one?

Q. Yes. A. I don't know.

Q. You don't know? A. I don't know, no, sir.

Q. "You don't know, no, sir," is that it? You say it isn't yours? You said at first you don't know. Now do you know or don't you know? A. That is not my writing.

Q. It is not yours? A. It is not mine.

Q. It is in your book, isn't it? A. Yes.

Q. In the middle of the book? A. It is.

Q. Is there writing afterwards? A. It is.

Q. "Richard 1930"? A. Yes.

Q. Then it is January, 1931, there, isn't it—1932, isn't it? A. It isn't mine handwriting.

Q. The "January" isn't it? A. (Nodding negatively.)

Q. Cross it out, please. A. This one?

Q. Cross out whatever isn't in your handwriting on that page. A. This one isn't, this one isn't either. That is mine.

Q. That is yours? A. Yes.

Q. Just one minute, now. This writing here—read it. A. Well, that is in German.

Q. Well, read it in German. A. "Erhalten from Harry Roeder am 24 January, $10.00."

Q. That means you received $10 from Roeder on January 24th, doesn't it? A. Yes.

Q. That is January, 1932, isn't it?

Mr. Pope: Is that Roeder?

Mr. Wilentz: Yes.

A. I can't make it out.

Q. All right. Maybe the next page will tell the story. There is a blank there and a blank there. There are some drawings there. Are they yours? A. No, they are not mine.

Q. Is this yours? A. No, sir.

Q. Well, we will throw that away, it is loose. All right? A. Yes.

Q. These drawings aren't yours? A. No, they are not mine.

Q. How about the picture of that window—that isn't yours, the drawing of that window? A. That should be a window?

Q. Well, what is it? I don't know. Isn't that a ledge there? A. I even can't make out what it is.

Q. You can't make out what it is? A. No.

Q. But you can make out the ladder there with the dowel pin? A. What is that?

Q. Doesn't that look like a ladder? Does it? A. It doesn't look like—

Q. What is it, a book, a picture of a book shelf or what? A. No, I don't know what it is.

Q. You said before when you started, you didn't know whether you put that in or not. Now here on the next page is an account of moneys you received

from some man by the name of Roeder. A. Yes.

Q. And on the next page is a picture of something. What is that? A. You are asking me? I don't know what it is.

Q. You don't know? A. No.

Q. Well, doesn't that look like a drawing of a window with some sort of dots or marks on it for something? You don't know what it is? A. I don't know what it is.

Q. It is not yours? A. It is not my window.

Q. Is this a loose one here? We will take that out. The one with the window on it is not loose. A. It is not loose.

Q. Now we still continue on with accounts in that book, don't we? What is that? Is that your handwriting? A. That is my handwriting.

Q. Is the next your handwriting? A. Yes.

Q. And that? A. That is my handwriting.

Q. Then a few blank spaces again; some torn sheets; then some funny drawings like a child would draw, isn't that it? A. (No answer.)

Q. That isn't yours, is it, a picture of a—that is not yours, is it; a picture of a star and those other things? A. No, they are little child's drawings.

Q. A child's drawings, that is right? A. A little child used to come in our house and play inside and he put them in.

Q. Just put an "R" on top there. A. (The witness complied.)

Q. And an "R" on top here. A. (The witness complied.)

Q. Now, those two pages represent drawings that some child drew in that book, isn't that right? A. Yes.

Q. All right; just so we don't get it confused. Now, what is this; a pinochle score or some game you played,—you and your friends? A. That's a kind of a card game.

Q. Well, it is a score of a card game? A. Yes.

Q. That is at the end of the book? A. Yes.

Q. That is what both of them are? A. Yes.

Q. But it is your handwriting, or somebody's handwriting keeping the game? A. It is somebody's handwriting.

Q. You can't tell? A. I can't tell.

Q. You won't say it wasn't your's or it isn't? A. No, I can't tell.

Q. But it is a book you kept home, and you kept the score of the game, isn't that it? A. Yes.

Q. All right. Now, is the next page yours? A. That's my handwriting.

Q. The next page is your handwriting too? A. That is in my handwriting.

Q. That is an account of all the hours you worked, isn't it? A. That's overtime.

Q. Overtime, yes. And that is the same thing from time to time, your handwriting (indicating another portion of book)? A. Yes.

Q. The number of hours you worked during those years and the employer for whom you worked? A. That's only for overtime.

Q. Yes. It is all your handwriting, is it? A. Yes.

Q. All right, we are almost to the end. Now see if the rest of it isn't your handwriting. That at the bottom isn't your handwriting, is it? A. (Witness shakes head.)

Q. The name Captain Hans Mueller? A. No.

Q. Cross it out, will you please? Somebody else wrote that in there, it doesn't look like your handwriting, does it? A. No, it is not my handwriting.

Q. You can tell your handwriting easy, can't you? A. Well, many people have got, German people got about the same handwriting.

Q. About the same, many people? A. Yes.

Q. That is the end of the book, isn't it? A. Wait a minute.

Q. The last page you didn't write then, the last page, did you write it? You didn't write it, did you? A. I can't make out this one.

Q. Well, if there is any doubt about it cross it off. The last page is not your signature, your writing. (Witness marks on page.) Except for that? A. All right, if you say except for that.

Q. Well, I am going to give you all the exceptions. A. Uh huh.

Q. Except for that—Just let me have the book a minute please. A. I guess that is for a little child too.

Q. You think that is a little child too? A. I guess.

Q. All right. Put an "r" on that page which you say you think is the drawing of a little child? (Witness marks page.) Put a circle around that "r" will you, please, because we have got r's in the back of the book—a circle around it. (Witness writes in book.) Now, is this also the drawing of a little child, this other piece, do you think that is too? A. It is not my drawing.

Q. Well, I know, do you think that is also the drawing of a little child? A. Looks like the drawing of a child.

Q. All right. Put an "x" there, an "x" with a circle around it. (Witness marks book.) That "x" with a circle also indicates that you consider to be the drawing of a child in your book. But, it is not yours anyway, it is not your drawing. A. It is not my drawing.

Q. You are sure of that? A. I am sure.

Q. All right, sir.

Mr. Wilentz: Now we offer this book.

Q. And, as I understand it, everything in this book except the page with the "x" on top of it, the

"r" with the circle around it, and two more r's in back here, those two? A. Yes.

Q. The drawing of the child, you said, and the last page, the hard page? A. Well—

Q. And some things you crossed out? A. There are marks from the card game on there either.

Q. Well, the marks from the card game—all right. Put an "h" on each one of these pages. The "h's" are not yours either? A. (Witness marks.)

Q. That is right and the other page. A. (Witness marks.) Which now?

Q. All right, take your time. Now look over it.

Q. If there is anything on the outside of the covers, we will charge that off. Everything else then is your handwriting except those things you have just indicated; is that correct? A. That is correct.

Mr. Wilentz: And all those things we have been talking about as to the book—

I offer that very book now in evidence, if your Honor please.

Mr. Pope: No objection.

(Memorandum book referred to received in evidence and marked State Exhibit S-261.)

Mr. Wilentz: All the members of the defense and the prosecution at the various tables, if your Honor please, think it is hot except me. I must bow to their request for a recess.

The Court: We will take a recess of five minutes.

(At 11:21 a. m. a short recess was taken.)

(After a short recess. The jury was polled and all answered present.)

(Cross-examination of the defendant resumed as follows:)

By Mr. Wilentz:

Q. Now on April the 2nd, 1932, you remember that is the date that there has been testimony by Dr. Condon that he paid you $50,000? A. Me $50,000?

Q. Yes. You recall that was his testimony. Now with particular reference to that date, April the 2nd, 1932, you had in your brokerage accounts 50 shares of Warner, isn't that right? A. That's right.

Q. That is all the stocks you had? A. That is all the stocks I had.

Q. At that time? A. Yes.

Q. On April the 2nd, 1932? A. Yes.

Q. And you had in your bank account a balance of $200—$202.26? A. That's about right.

Q. That is correct. That is all the money you had in the bank; that is all the stocks that you had? A. Yes.

Q. Now you also had a mortgage which you and your wife purchased before you started buying stocks, isn't that right, about 1927 or 1928? A. That's right.

Q. For $3700 or $3750, something like that, is that right? A. Yes.

Q. April the 2nd, 1932, cash, $202, stocks 50 shares of Warner. A. Yes.

Q. Is that right? A. (Nods affirmatively.)

Q. And the mortgage. A. (Nods affirmatively.)

Q. Now, in 1929, you had, you said, about $3500 in cash at home, $3,000 or $3500 I think you said. Is that correct? A. '29?

Q. Yes. Well, if I am mistaken about it you tell me. A. It is about right.

Q. About three thousand or thirty-five hundred. And in 1931 you had about $4,000. A. Yes.

Q. Cash at home? A. Cash at home.

Q. That was the cash you were hiding from your wife? A. Yes.

Q. $3500 in 1929, $4,000 in 1931—something like that. A. Something like it.

Q. About what month in 1931 did you have this $4,000— well, you just remember the trip to California. That was in July? A. I only can remember when I put it in in circulation I got four thousand and three hundred.

Q. Four thousand three hundred. A. Yes.

Q. When did you put $4,300 in circulation? A. Oh, slowly.

Q. Into your brokerage accounts? A. I put first $600 in brokerage accounts.

Q. You put $600 in brokerage accounts. But you had $4300 in cash in 1931, didn't you? Did you have it in 1932? A. I did have it in 1932.

Q. On April 2nd, 1932, you had $4300 in cash, is that right? A. Yes.

Q. And in 1931 you had $4300, about that? A. About it.

Q. A little less or a little more, which would you say? A. Not more.

Q. Less? A. Probably a little less.

Q. Probably a little less in 1931. In 1929 or somewhere about there, you had a little better than $3,000 or $3500? A. Yes, sir.

Q. I take it you kept that money home, you said? A. Yes.

Q. Where in the house? A. In the big trunk.

Q. In a trunk? A. In a trunk.

Q. What did you have in the trunk? A. We kept stuff we didn't use in the Winter time, we put the

stuff in for the Summer time, and in the Winter time put the stuff for the Summer time.

Q. You mean clothes? A. Clothes, yes, and other things.

Q. Clothes and other things? A. Yes, sir.

Q. A trunk. How big was the trunk? A. (Indicating with hands.)

Q. About how big would you say that was? A. About 32 inches.

Q. About 32 inches in width? A. Yes.

Q. About how high? A. Two feet, or twenty inches.

Q. And how deep across? A. About 18 inches.

Q. And you had clothes in there. What else did you have in there? A. Featherbeds.

Q. Featherbeds? A. Yes.

Q. It was a dry place, wasn't it? A. It was.

Q. It was a dry place you kept it in? A. Of course it was dry.

Q. What room did you have it in? A. Front room.

Q. Front room? A. Yes, in the big closet in the front room.

Q. In the big closet in the front room? A. Yes.

Q. You had a key to it, didn't you? Was it locked? A. The closet wasn't locked.

Q. No, the trunk, was the trunk locked? A. The trunk was locked.

Q. Who had the key? A. I got a key.

Q. Did your wife have a key? A. No, sir, the last year we lost the key, we got to break up the trunk the last time.

Q. Did your wife have a key? A. No, sir.

Q. Featherbeds in there, and your wife didn't have a key? A. No, sir.

Q. Clothes in there and your wife didn't have a key? A. No, sir.

Q. But it was a safe place, wasn't it? A. It was.

Q. It was a dry place? A. It was.

Q. You weren't hiding the featherbeds on her, were you? A. Absolutely not.

Q. The money is what you were hiding? A. Yes, sir.

Q. Always money hiding? A. Yes, that is right.

Q. And you put about $10 a week in there, didn't you? A. No, I didn't put it every week in there.

Q. But you averaged about $10 a week? A. Yes.

Q. There in the front room. A. Yes.

Q. Was it the front room? A. It was the front room.

Q. Is that where you entertained your company? A. Yes.

Q. Is that where you had your Victrola? A. Yes.

Q. Is that where you had your radio? A. Yes.

Q. That is where the guests came? A. Yes.

Q. There in that front room in that closet you had a trunk and in that trunk you had this money. A. Yes.

Q. And you put it there because you knew it was safe. A. Yes.

Q. That was the safest place in your house, isn't that right? A. I guess it was the safest place.

Q. That is why you put it there. A. Yes.

Q. So safe that you were sure that you could keep it out of the sight of your wife, isn't that right? A. Well, I know my wife she goes probably only two or three times in a year in this trunk.

Q. I see. That is what I say. So safe that you thought you could keep it away even from your wife, isn't that right? A. Yes.

Q. But it was a dry place. A. Yes.

Q. And that is the only place you kept this money that you kept in hiding. A. Yes.

Q. There is no question at all in your mind that

you had that money there; you are sure you had that money. A. Positively.

Q. The amount you said in 1929, 1930 and 1932? A. Yes.

Q. And 1931? A. (Nods affirmatively.)

Q. Now, I want you to take a look at this account in your handwriting for 1929, with the German word "Yahr"—that means year, doesn't it? A. Yes.

Q. And you have got "Richard, $2,066." and "Anna, $1,035"—altogether $3101? A. Yes.

Q. That was your compilation and your addition of the moneys in your account? A. Yes.

Q. Is that right? A. Yes.

Q. And you wrote it? Is that right? A. Yes.

Q. Now you were doing pretty well in that year 1929, you saved quite a lot of money, didn't you, you and your wife? A. Yes, me did.

Q. You worked as a carpenter then, didn't you? A. Always worked as a carpenter.

Q. Yes, and your wife worked hard, too, didn't she? A. Yes.

Q. And you saved money? A. Yes.

Q. It was slow, but you saved money, didn't you? A. Yes.

Q. And so you had that bond, that mortgage that we just talked about, $3750, didn't you? A. Yes.

Q. And you put that in the book to show what you had? A. Yes.

Q. That was the only money you had, wasn't it? A. Yes, it was.

Q. You had stocks, didn't you, $2850 worth? A. Is that '29?

Q. $2850 in 1929, yes. A. Yes.

Q. And you put that in the book, didn't you? A. Yes.

Q. You had $150 coming from whom—what is that word? A. Outstanding.

Q. Outstanding? A. Yes.

Q. People you loaned money to? A. Yes.

Q. And you put that in the book, didn't you? A. Yes.

Q. You had $900 in cash in the bank? A. Yes.

Q. And you put that in the book? A. Yes.

Q. This was your inventory at the end of the year? A. Yes.

Q. Now tell us what the next words are? A. "Was at home."

Q. $16 at home? A. Yes.

Q. Isn't that right? A. That is right.

Q. Not $3500? A. No.

Q. Not $3000? A. Yeah, but that is the reason.

Q. Just tell us what you have got in there in your own handwriting—$16.59 home in cash, isn't that right? A. That is $16 at home in cash, was my wife know.

Q. Now, how much money were you worth at the end of 1929, altogether? A. Well, figure this account together and about—

Q. How much do you say you were worth in everything at the end of 1929? A. Not even—I have to figure out.

A. (Continued) On the end of '29?

Q. Yes, the beginning or the end; I don't care which it is, in the middle, any time in 1929, how much were you worth? A. Oh, I figure around ten thousand, nine thousand, ten thousand.

Q. Nine or ten thousand? A. Yes.

Q. Well, if it was nine, you wouldn't only have fourteen thousand, you have got $7600 total assets. When you put $7666 in this page for the year 1929, that was your total as you put it into this book of the assets: isn't that right? A. Yes; except the money my wife—

Q. Except the money you were hiding on your wife? A. Yes.

Q. All right. Now, let's come down to 1930. You still had quite some money in 1930, didn't you? A. (No answer.)

Q. And so you keep up this record, that is, the number of hours you worked in 1927, isn't it, or the moneys—what is that, the amount of moneys you earned? A. Let me see it.

Q. What does that German word mean, how do you pronounce it and what does it mean? A. Weeks, week end, that is always the end of the week.

Q. The end of the week? A. End of the week.

Q. Does that mean how much money you earned or got the end of the week, forty-five dollars? A. Yes, sir.

Q. Twenty dollars, and so forth? A. Yes.

Q. Those are moneys that you earned when you worked. A. Yes.

Q. On the other side you have got the moneys Anna earned? A. Yes. I didn't put the overtime in.

Q. You didn't put the overtime in? A. No, doors put up, screens and things, I didn't put in.

Q. Were you hiding that from your wife? A. Money I made I didn't show the wife.

Q. Most of the money you made that way you wouldn't show your wife? A. No.

Q. Then the next page, the same thing, week after week you have got the amount of money you earned and the amount of money Anna earned, isn't that right? A. Yes.

Q. Right from week to week, correct and accurate, right to the penny, isn't that right? And then you come down at the end of 1928 and you total again the amount of money you have got in the bank, how much of it is yours, how much of it Anna put in, how much Haberland owes you, how much Diebig owes you and how much Ernest owes you and how much you have got in the house, $112, isn't that right, in cash? A. Yes, right.

Q. And so you are through with the end of that year. And you have $5780. Did you ever have that much money when you were in Europe? A. I got billions.

Q. Billions in Europe? A. Yes. Inflation it was.

Q. What is it? A. Inflation time.

Q. Inflation time? A. Yes.

Q. You had billions. A. Yes.

(Laughter.)

Q. That is a sort of a hallucination with you, isn't it, this billions business?

Mr. Reilly: May I respectfully protest—not against the question of the Attorney General—but this is very important to the defendant, and this laughter out here from these people the second and third time—I protest against it, especially during the course of the examination of this witness. They seem to think it is very funny that a man makes millions in inflation.

The Court: Well, you are quite right in protesting. It would seem as if people who are permitted to come in here in some way, and who have no business here, ought to have decency enough to keep quiet. We have officers here who are supposed to enforce that obligation upon the part of these spectators and I would like them to busy themselves about it.

That is all I can do at the moment, Mr. Reilly.

Mr. Reilly: I think that will be most satisfactory.

The Court: Except to adjourn the court and clear the room.

Mr. Reilly: I wouldn't ask you to do that. I think that will be effective. Most of the disturbance seems to emanate from one section over here. I have noticed it all during the trial, over in this particular corner.

The Court: Yes; over in that corner. That is where it comes from invariably.

Well, now, Mr. Attorney General, you may try again.

Mr. Wilentz: What is the last question?

(Pending question read by the reporter.)

By Mr. Wilentz:

Q. You didn't really have billions, inflation or otherwise, in Germany or in Europe, did you? A. Well, this was inflate money.

Q. Well, how much is the most money, inflated or otherwise, that you ever had in Europe, and when was it? A. Very little.

Q. Very little. So this business about billions you think is a great joke, don't you? A. No, I guess it is not a joke at all.

Q. Then you don't mean billions at all, do you? A. (No answer.)

Q. How much would you say was the most money you ever had in your life before you came to the United States? A. That only amounts to about a hundred dollars.

Q. About $100. So after you worked very hard and your wife worked very hard, you finally, at the end of 1928, got $6666 saved together, didn't you? A. Yes.

Q. And then at the end of 1929, you are still keeping an account of every dollar that you earn and every dollar that your wife earns, and what you did with it, and you take the inventory at the end of the year and you have done much better; you have saved some more money in the year and you have got up to $7666? A. Now may I explain?

Q. Yes, sir; you may explain. A. This is marked in my wife's name, she earned every week $25, but it doesn't say exactly the full $25, because my wife, she was working as a waitress in a bakery at the counter, and she always get tipped, and so sometimes it was $30, sometimes more than that, but we put it every week $25 in.

Q. I see. Did she hide any money on you? A. Well, I am not—I don't know.

Q. Well, you don't think she did, do you? A. Well, of course, everybody got his secret, I guess.

Q. Everybody has got his secret. Do you think your wife was hiding money on you? A. I never asked her.

Q. Do you think she was hiding money on you? A. I really don't know.

Q. You wouldn't say she wasn't, would you? A. I can't say anything about dat.

Q. You wouldn't give her the benefit of the doubt? A. I don't tink so.

Q. You don't think so. A. Yes.

Q. Well, all these amounts aren't $25, some are twenties, aren't they, and some are fives? A. They are all twenty-fives, is it?

Q. Well, take a look at the third one, that is twenty, isn't it? A. Maybe there was a holiday there.

Q. Well, maybe there was a holiday, but it is twenty just the same, holiday or no holiday, isn't that right? A. That is a twenty there, yes.

Q. There is a five, and a five, that is not two twenty-fives, is it? A. Well, that is for the whole, for the whole month. It would be only $10 for the whole month. I don't know, I can't remember exactly.

Q. That is— A. —what was—

Q. That is why you put it in the book, because you couldn't remember, so you put it in from week to week, isn't that right? Isn't that right? A. I put it in the week, to give me a showing in general how we are standing.

Q. Yes. Now, it was so general, that when you came to it and you earned $49.50, you put $49.50 in the book, and not $49, isn't that right, isn't that so? A. That $49.50, yes, sir.

Q. Yes, you even put the cents in you had earned, $29.25, is that exact or is that just general? A. That is was always been the bay (pay) I got from my boss, but not extra bay.

Q. Not extra pay? A. No.

Q. And so on. A. Except the big ones, Haberland & Deuchstorff.

Q. So if you come to May, June, July, 1931, and on July the 11th, 1931, the book closes, no more accounts. A. No, you are mistaken.

Q. 1930. A. That is 1930.

Q. 1930. That is right. 1930. How many weeks after the Lindbergh child was born? A. I don't know.

Q. You don't know? A. (Nods negatively.)

Q. And the book stops then, doesn't it? And then you go into some other figures in the back of the book, moneys—what is that? Moneys that you loaned to Diebig and to Brill, or money that they owe you or you owe them? A. Let me see.

Q. Hours of work, I guess that is, the hours that you worked for them. A. That is hours.

Q. Who did you build the three houses for that

you talked about where you made this extra money? A. Mr. Brill.

Q. Mr. Brill? A. Mr. Haberland. Mr. Deuchstorff.

Q. And this is the Brill hours that you worked building the house, isn't it? A. Yes.

Q. So you got your extra hours in here, haven't you? A. Yes, that goes to a big amount because them people couldn't pay me right away, so—

Q. But you have got the extra hours in your book for Brill, haven't you? A. Yes.

Q. And you have got the extra hours in the book for Haberland. A. Yes.

Q. So you weren't hiding that from your wife, the extra hours. A. No, I got to keep this in the books.

Q. Sure you got to. That is why you kept it. But you haven't in there, in it, Haberland and Brill's extra hours. A. Yes.

Q. Yes. Now that is the end then, July, 1930—that is the end of the account. A. Yes.

Q. You were quite a bookkeeper during those days, weren't you? You wanted to make sure that your accounts would be kept, so you took the pencil markings in the one book and transferred them to a little book in ink, did you not? A. I can't remember that.

Q. Well, I will show it to you. Is this your handwriting (presenting a book to the witness)? This page, "jahr 1926, Richard." A. Yes.

Q. "Richard Verd," that means how much you were worth,—is it? A. That means what I made.

Q. A little louder. A. That is what I made in the year.

Q. What does V-e-r-d stand for? A. That is what I made.

Q. That is what you earned? A. Yes.

Q. At any rate, at the end of the year 1926, you had $3758, is that correct? A. Yes.

Q. And that represented what you earned and it represented what Anna earned and it represented some money you loaned to Albert somebody and to Von Erst and to Maria, is that right? A. Yes.

Q. Then you have got the year 1927, haven't you? A. Yes.

Q. And you are up to $5780? A. Yes.

Q. That is the beginning of 1928? A. Yes.

Q. And you have got— how much cash have you got in the house then? "zu Hause, $112." What does that mean? A. We got $112 home there.

Q. In cash. A. In cash.

Q. All right. Now, then, I showed you the 1929 entry a moment ago, in the little book where it was written in pencil, and you have it in here again, $6,-666; is that right? A. Yes.

Q. Exactly the same; it is a copy, isn't it? A. It is a copy.

Q. Surely. While you are looking at it, will you take a look at that "D" in "Deutschland." A. Yes.

Q. Will you look at this "D" in the disputed handwriting (referring to chart on wall). A. I see it. And I see a whole lot difference.

Q. You say they are different? A. Oh, yes.

Q. All right, sir. Now we will come to the next page, 1929; and you copy again, don't you, from that little book to make sure you will be able to keep it in pen and ink now you have got it— $7,666 on January 1st, 1930; is that right? A. Yes.

Q. Is that your handwriting? A. Yes.

Q. Now read that last line again, "zu Hause," how much money have you got home? A. $16.

Q. $16. Do you see that "x" in "Alexander Begg"? A. Yes.

Q. Did you write the "Alexander Begg"? A. I did.

Q. Is that the name of the man you had the accident with? A. Yes.

Q. When did you have the accident? A. October 17th—

Q. October 17th, 1930, didn't you? A. I will have to look there.

Q. Look at it. A. October 17th, 1932.

Q. '32, October 17th, 1932. The "x", you see that, don't you? A. Yes.

Q. Does it look to you like this "x" (on chart on wall)? A. No.

Q. It doesn't look to you like that "x"? A. It is a little bit different.

Q. It is a little bit different? A. Yes.

Q. Does it look like this "x" (on another chart)? A. Let me look at it.

Q. Look at the "Alexander." A. It is close to it.

Q. It is close to it? A. Yes.

Q. Pointing to the "x" in Exhibit S-108 under the "Hauptmann Writing". How about this "x," in "expected"?

Mr. Pope: I object to that.

The Court: There is an objection here, Mr. Attorney General. What is the objection?

Mr. Pope: He didn't write it.

The Court: What is it he is being examined upon?

Mr. Wilentz: Whether or not the "x" in "Alexander," which is his writing, I am asking him whether that "x" is similar to the "x" in "expected" in Exhibit S-108 which is in evidence.

The Court: He may answer the question.

Mr. Pope: It is the disputed writing.

The Court: I understand that.

Mr. Pope: He is asking this witness, who is not an expert in handwriting, to compare a writing with a written "x" which he made with an "x" in something he did not make, and which is nothing but a photograph of the disputed handwriting. We object to it as immaterial.

The Court: The objection is overruled.

Mr. Pope: May we have an exception?

The Court: Yes.

(Exception allowed and same is signed and sealed accordingly.)

(s. s.) THOMAS W. TRENCHARD,
Judge.

By Mr. Wilentz:

Q. Do they look alike? A. I don't think so.

Q. How about the next one in "expenses"? A. I don't think so.

Q. How about the next one? A. I don't think so either.

Mr. Wilentz: Just mark that, please. We will put it in evidence, that page, if there is no objection.

Mr. Pope: Yes. We object to any writings at this time to be used for the purpose of

comparison. The standard writings may be used for the purpose of comparison, and this should have been introduced on the State's direct case and not on our case.

The Court: Well, it doesn't appear that this book has been used or was intended to be used only for the purpose of comparison, does it? I understand that he read from that book—

Mr. Pope: Then if it isn't to be used for that purpose, it is incompetent, irrelevant and immaterial, because there is nothing else on the page which he is now offering that could be used for any other purpose.

Mr. Wilentz: Oh, yes, there are other matters too, but we haven't come to that.

Mr. Pope: Not on that page.

Mr. Wilentz: Yes, on that page.

The Court: The book is offered in evidence?

Mr. Wilentz: Yes, if your Honor please.

The Court: It will be admitted.

Mr. Pope: I understand he was only offering this page in evidence.

Mr. Wilentz: Well, he said it was his book and I will offer the book.

Mr. Pope: May we ask the Attorney General for what purpose the book is being offered?

The Court: Yes.

Mr. Pope: We are entitled to know.

The Court: Yes, you may ask him.

Mr. Wilentz: The purpose of the book first is to show that he isn't telling the truth about the money at home. That is the first thing. The second thing is to show his handwriting, if it is his handwriting. The third thing is to show his system, the manner in which he lived and how he attempted to accumulate money and his purpose in life. There are other things as I come to it; if he says that they are his handwriting, I will go to each one of them, and I would rather not comment on that, in fairness to the defendant, until he says it is his. I have gone from page to page.

The Court: Have you anything further to object to?

Mr. Pope: No, sir.

The Court: Nothing?

Mr. Pope: One of the reasons that he says it is to be used is for the purpose of comparing his handwriting. That we object to. That should have been done in the State's direct case.

The Court: Well, you object to the admission of the book?

Mr. Pope: Yes.

The Court: I will overrule your objection.

Mr. Pope: I pray an exception.

The Court: Take your exception.

(Exception allowed, and the same is signed and sealed accordingly.)

(s. s) THOMAS W. TRENCHARD,
Judge.

The Reporter: S-262.

(Memorandum book received in evidence and marked State's Exhibit S-262.)

Q. Now in July, 1931, of course, in May, 1931, you had $3,500 at least at home, didn't you? A. Yes.

Q. That is May, 1931? A. No, I guess I got a little more than that.

Q. A little bit more? A. (Nods affirmatively.)

Q. In 1931, I think you did say about $4,000, in July, 1931. A. Yes.

Q. That was your testimony. I want you to refresh your recollection now. A. Yes.

Q. Now, in May, two months before that, I suppose you had a little bit less or something like $4,000, is that so? A. What was the last date you said?

Q. July. Let me read your testimony just to refresh your recollection. Mr. Reilly asks you: "Can you tell us now about how much you had in cash just before you started for California in 1931?" Your answer was: "You mean by cash all the money in my possession, in the house? Question: In the house. Answer: Yes. Oh, in the house it was approximate a little bit over $4,000."

Q. That is just about when you went to California. You remember that? A. Yes.

Q. July the 5th? A. Yes.

Q. So you had about $4,000. I want you to go back about two months, to May, 1931. How much money did you say you had then about? You don't have to be exact, $3,700, $3,800 or $3,900? A. No. Probably a hundred dollars less. I really don't know.

Q. Yes, that is what I say, about 39. A. No bookkeeping about that.

Q. Somewhere between 3,500 and $4,000, in between? A. It is somewhere between 3,900 and $4,000, better put it that way.

Q. You had this cash. Now, don't forget that. A. Yes.

Q. That is May, 1931? A. Yes.

Q. Now, you got a letter from the broker for $74.89? A. Yes.

Q. You weren't doing as well in the brokerage accounts as you did in your carpenter work, were you? A. Well, I couldn't—

Q. In 1931? A. This time I couldn't watch the broker, because I was working the same time.

Q. And so you were losing money? A. Yes, that is correct.

Q. In other words, you found out you couldn't do the brokerage business and the carpenter work both and do them well, is that right? A. That is right.

Q. And while you were trying to earn a few dollars as a carpenter, Wall Street was taking away hundreds, right? A. That is right, that is right.

Q. So you, of course, got to the point where you were losing money? A. Yes.

Q. You lost money until April 2, 1931, in your brokerage accounts, didn't you? A. Yes, I did.

Q. About $3,000 or something like that? A. That is about.

Q. $3,000 that you earned as a carpenter and that your wife earned as a waitress? A. Yes.

Q. Is that right? You lost in the stock market? A. Yes.

Q. Until April 2, 1932, is that right? A. That is correct.

Q. And you were losing it right along up to, say, May 31, 1931, the market was bad, stocks were down, and the broker said to you, "Mr. Hauptmann, we need $74.89," isn't that right? A. Yes.

Q. And so you wrote him a letter and said "Wait a few days for it"? A. Yes.

Q. Now, you waited a few days, and did you send him the 74? A. Oh, I can't remember. I suppose I did.

Q. Well, I am going to refresh your recollection then. Where did you get the $74 if you did give it to him? You had $3,500 in your home in cash? A. As a rule I never touched—

Q. Not as a rule. I want to know, that money— A. If he—

Q. That money, May, 1931, you got a call for $74 and some cents from the broker? A. Yes.

Q. You had about $4,000 in cash in that trunk— A. Yes.

Q. They were going to sell your stocks out if you didn't put it up; you went and got the money. Where did you get it from? A. From my work.

Q. Where, from the trunk? A. No, sir, never touched the trunk.

Q. Never touched the trunk? A. No.

Q. Where did you go to get it? A. It was probably a pay check coming.

Q. You didn't take it from the trunk, though, did you? A. Did not.

Q. And the reason you didn't take it from the

trunk was because you didn't have anything in the trunk, isn't that it? A. No, as a rule I never touched the money in the trunk.

Q. Yes. You wanted to make sure that you would hide it on your wife? A. That is right.

Q. So you went and paid the broker. You must have paid him all the $74; you didn't pay him less, did you, because you had a lot of money, you paid 74, didn't you, what ever he wanted? A. I suppose—

Q. When you got the letter, you finally paid him the $74, four days afterwards, didn't you? A. Well, I am not quite sure if I paid him them $74.89 four days after. I said I was going to pay him four days after, but if I did, I am not quite sure.

Q. Why did you write him when he asked you for $74.89 and you were worth $10,000, why did you write him and ask him to wait four days? A. Because I ain't got them $74 not quite handy, and I was not going to touch the money I got at home.

Q. Not quite handy? A. Yes.

Q. Thousands of dollars in cash laying in a trunk, money in a bank, stocks, mortgages, and not quite handy? A. Yes.

Q. Is that the best explanation you can give? A. Why should I take it for an amount for $74 and probably sell a mortgage or something?

Q. Well, you didn't have to sell the mortgage. A. Sure.

Q. Because Anna wouldn't let you, would she? A. No, that's right, too.

Q. Certainly that's right. A. Sure.

Q. And that is why you didn't use the mortgage, is because Anna wouldn't let you, isn't that right? A. (No answer.)

Q. Well, at any rate, she wouldn't let you use the mortgage. Now forget the money in the trunk for a minute. A. Yes.

Q. Anna won't let you sell the mortgage in 1932. And the only thing you have got besides the mortgage and the trunk is 50 shares of Warner and $212 in cash, isn't that right? A. Yes.

Q. That is all you were worth that day, outside of those two items, isn't that right? A. That again.

Q. On April the 2nd that's all you were worth outside of the money you say was in the trunk and Anna's mortgage, the $212 and the 50 shares of Warner. A. Yes. There was a little bit money that amount to a few dollars that was outstanding; I don't know who it was.

Q. Outstanding? A. Yes.

Q. And the 50 shares of Warner. A. Yes.

Q. You know, of course, what it was worth; you were a stock market operator. You know it was selling for about $200 a share. A. That's right.

Q. A hundred dollars. You had lost seven or eight hundred dollars on that one transaction alone. A. Yes.

Q. Fifty shares of Warner Brothers? A. Yes.

Q. You weren't such a good stock market operator, were you? A. Well, you have to— the first time you got on the stock market you have to pay for it.

Q. And the first time you build a ladder you don't build a good one, do you? A. I never build a ladder.

Q. You never built a ladder, did you? A. No, sir.

Q. You built windows though, didn't you? A. No, sir.

Q. You built doors, didn't you? A. No, sir.

Q. Did you build floors? A. I lay floors, yes.

Q. You laid floors? A. Yes.

Q. What did you build? A. I build houses.

Q. You did? A. Yes.

Q. You were a carpenter in Germany, weren't you? A. For one year, yes.

Q. For one year? A. Yes.

Q. You were a machinist, too, there, weren't you? A. Yes.

Q. You used to make designs, didn't you, and drawings? A. Well—

Q. Did you make designs and drawings as a machinist in Germany? A. No.

Q. None at all? A. Nothing at all.

Q. No blueprints? A. No, no blueprints.

Q. Do you remember the circles in the Krupp, the symbol in the Krupp Company, the three interlocking circles? A. I saw it.

Q. You saw that? A. Yeah.

Q. But at any rate, when you first went into the market you weren't so good at it? A. That is right.

Q. And you never built a ladder; that is sure? A. That is positive.

Q. If you did build a ladder, the first one wouldn't be so good, would it? A. I guess the first one would be very good.

Q. Very good, hey? Well, let's take a look at this $74 again. Do you remember whether you paid the $74 or whether you let him sell the stocks? A. I can't remember, the amount is so little.

Q. Let me refresh your recollection. Didn't you then pay $50 on account of the $74.89 and take that $50 from your bank account? A. I don't know.

Q. Well, let me show you. Possibly this may show it if anything does. Do you see the Warner Brothers— You owe them $74.89. That is the item, isn't it? A. Yes.

Q. Now, that is May 20th— You owe that money? A. Yes.

Q. Now, you see May 25th; you write him you are going to pay him the money May the 25th, then you see the entry, "May the 25th, $50"? A. Yes.

Q. That is what you paid him? A. Yes.

Q. You didn't have the $74 to pay him, did you? A. Oh, I did have the $74, I only have—

Q. You did? A. I only have to go to the bank and take the money out.

Q. And then you got a telegram from the broker to pay the $24, didn't you, in December, 1931, December—

Mr. Pope: What year was that?

Mr. Wilentz: 1931.

Q. Two months before the Lindbergh child was kidnaped, didn't you get this telegram, December 2nd, 1931— or three months before: "Having no response—" Pardon me. Just take a look at that registry receipt. Is that your signature? A. Yes.

Q. Did you sign for that telegram? Look at it. A. (Examines carefully.) Well, that is December 2nd, 1931—

Q. That is right. Did you get that telegram? A. Well, I can't remember, but if there is my name on—

Q. Well, there it is, December the 3rd, 1931, you signed a registered receipt for it. A. Then I got it.

Q. Now, does that refresh your recollection so that you know you received it? Not only a telegram, but you got a registered letter, too, didn't you? A. Yes, I get a couple of them.

Q. Did you get a telegram like that? A. It is signed— I can't remember a telegram, but I signed on this here.

Q. Or a letter? A. And so I suppose I—

Q. You suppose you received it? A. —I received it.

Q. And you remember from that now, do you

not, that they sent you a telegram and wrote you a letter for the $24? A. Must be this way.

Q. Must be that way. Now, read that telegram? A. "Have no response—"

Q. "Having no response—" A. "—to our previous—"

Q. "—to our previous—" A. "—communication—"

Q. That is right: "communication, this—" A. "—this is to advise you—"

Q. Yes. A. "—that we intend—"

Q. "—that we intend—" A. "—selling—"

Q. "—selling—" A. "—sufficient stock—"

Q. "—sufficient stock—" A. "—to liquidate the balance without further notice."

Q. "Carleton & Mott," isn't that it? A. "Carleton-Mott."

Q. You don't have any trouble with the word "liquidate" since you have been in the market, do you? A. Never read it.

Q. Never read the word "liquidate"? A. Never write it.

Q. So you got a telegram for the $24 and some cents? You got letters anyway, didn't you? A. (Nods.)

Q. And do you remember what you just read, "Having no response to our previous communications—" You had already received letters before that and notices to put up the $24, hadn't you, and you didn't put it up, did you? A. Because the amount was too little. I really didn't much care for it.

Q. Oh, the amount now was too little? A. Yes.

Q. How about $74.89? You didn't put that up; it was too big, wasn't it? A. Well, you said I put up $50 of it.

Q. Yes, the $74.89, but $74.89 was too big, so you only put up $50? A. I explained it. Maybe I

received the letter, probably on beginning of the week and I was not going— not willing to go to the bank to take the $74 out, so I sent him a letter to wait till Saturday and probably my pay check on Saturday was only $50, I suppose, and I sent him the $50.

Q. Well— A. That is how I explain it.

Q. As a matter of fact, at the end of 1931 you were running very low for money, weren't you? A. No, I wasn't exactly running low for money.

Q. You were losing money in the market heavily, weren't you? A. I guess I didn't play in 1931 at all. There was—

Q. You had lost your money then. You had only fifty shares of Warner? A. Yes.

Q. You had lost already a lot of money? A. I lost a lot of money, yes, that is right.

Q. You took Annie Hauptmann's money out and ran it down from thousands of dollars with yours at the end of December, 1931, when they called for this money, you had a little over $100 in cash in the bank, between you and no cash; isn't that right? A. I don't know how much money I got.

Q. Let me show it to you. What is your balance on the first of December, 1931? A. Hundred dollars.

Q. And 96 cents? A. Yes.

Q. That is all the cash that you had in banks, isn't that right? A. Yes.

Q. And that $25, you finally went down on the 3rd day of December, when you got this telegram, just like the receipt shows, and you drew that $25 out, didn't you? A. I can't remember if I drew it out.

Q. You see it shows, doesn't it? A. It shows.

Q. And then that left you with $75.96? A. That is right.

Q. And that is why you took some time to pay

this $78, because you were getting down to where there was no more money left, isn't that right? A. No, I was willing to take some of my money out from the trunk, so I pushed it out as far I could.

Q. When it came to losing money, you were losing Annie's money? A. Just the same my money.

Q. But, what you were saving was your money from the trunk, isn't that right? A. Yes.

Q. Did you want to get away from Mrs. Hauptmann? A. No, it just happens that—

Q. Didn't you say when Mrs. Hauptmann came back from Germany that you couldn't live with her any more, that was when you had all these thousands of dollars at home? A. What?

Q. Didn't you tell that to Mr. Brent that you can't get along with Annie any more? Well, you did or you didn't? A. Do you know what you are talking about?

Q. Yes, I know what I am talking about. You answer the question. A. You are talking about my wife and me?

Q. I am talking about you and your wife, yes. Did you say that to Mr. Brent? A. No.

Mr. Wilentz: All right, I offer this card in evidence.

The Reporter: Exhibit S-263.

(Card referred to was received in evidence and marked State's Exhibit S-263.)

Q. Mr. Greeger, Greeger, not Brent; or Reger. Did you tell it to Mr. Reger? A. Reger?

Q. Yes. A. Now you bring up a different name I even don't know.

Q. Yes. All right. Your answer is No.

The Court: Was that card shown counsel for the defendant?

Mr. Reilly: I assume it is the card that the witness said he signed and that is why there is no objection.

The Court: No objection. It may be marked as an exhibit.

Q. Now, when Fisch gave you this box, this shoe box, he told you to keep it in a dry place, didn't he? A. Yes.

Q. Don't forget that now. He told you to keep it in a dry place. A. Yes.

Q. And a safe place. A. Yes.

Q. How much money was in that box? How much? A. (No answer.)

Q. You counted it many times. How much was in the box? A. I find it out later it was close to fifteen thousand.

Q. How much was in the box when you counted it? You counted it many times. A. I didn't count it in the box.

Q. How much money was in that box, gold, how much? A. I counted the money when the money was dry and it was close to fifteen thousand.

Q. How much money was in that box, not close, not far away, strange money, money you found when you were excited; how much was in there? A. All the money that was in my possession in gold certificates.

Q. How much? A. That's what I said, close to fifteen thousand.

Q. Fourteen six hundred, fourteen seven hundred, fourteen nine hundred, how much? A. Close to fifteen thousand.

Q. Why don't you know the amount? A. Be-

cause I took a few out of there and I really don't know.

Q. Before you took the few out how much was in there? A. I didn't count it.

Q. You didn't count the gold you found? A. I did count it.

Q. You did count it? A. After I—

Q. How much was in there? Don't get away from it. A. Close to $15,000.

Q. You don't know how much? A. Not exactly.

Q. Was it $14,900? A. Can be.

Q. Was it $14,800? A. Can be.

Q. Was it 14,700? A. Can be.

Q. I don't want to know "can be," I want to know how much it was? A. I told you.

Q. You don't know? A. Not exactly.

Q. Not within a hundred or within two hundred or within three hundred or within four hundred, do you know? A. I said close to $15,000.

Q. How close? A. Say 14,800.

Q. 14,800? A. Yes.

Q. That is a guess? A. Pretty close.

Q. It is a guess, you don't know the exact amount? A. Not exactly.

Q. When you found that money and you took it into the garage to dry it, you didn't count it then, did you? A. When I bundled it.

Q. You just answer the question. You know what I am asking you. When you took that money from that shoe box down into that garage and you took those gold certificates and put them in a basket, one after another, fives, tens and twenties, whatever they were, you didn't count it, did you? A. No.

Q. You left it lay in a basket all night and you didn't count it? A. That is right.

Q. You left it lay another night and you didn't count it? A. That is right.

Q. The reason you didn't count it was because you knew, didn't you? A. I didn't know anything. I didn't—

Q. Thousands of dollars lying around of strange money, you find it and you don't even count it, is that right? A. It was hard to count it.

Q. Hard to count it? A. Because it was all wet.

Q. For two weeks you left that money in the basket without counting it, didn't you? A. I counted always when I took the dry one out.

Q. After it dried, two weeks later, you counted the money, didn't you? A. Now listen, the first money, I took out—

Q. Not took out, I want to know when you counted it. We will come to your taking it out. A. Always when I took the dry ones out, I counted the dry ones.

Q. You take a few out and count the dry ones? A. Yes.

Q. It took two weeks for you to count the money? A. Yes.

Q. It took two weeks for the money to dry? A. I suppose so.

Q. For two weeks you left gold lying in the basket and did know how much was there? A. That is right.

Q. The trunk was a safe place, was it not? A. It was.

Q. The trunk was a dry place, wasn't it? A. Yes.

Q. When you had money and you really wanted a safe place, you put it in the trunk, didn't you? A. Yes.

Q. Everything that you thought was dear to you in this world by way of physical assets, the thing that you loved the most, money, you kept in that trunk because it was safe and dry, isn't that it?

Mr. Pope: We object to the form of that question.

Mr. Wilentz: Well, I think this is cross-examination, if your Honor please.

The Witness: That is not the way I lose most money.

Mr. Pope: He is characterizing— well, it is done.

Q. But you kept all the money you had in that trunk because you thought that was the best place for you to keep it? A. Yes.

Q. Better than the bank? A. No, no; not better as a bank.

Q. Better than the vault? A. No.

Q. Did you have a vault? A. Not this time.

Q. Not at that time? A. No.

Q. But you had a bank account. A. Yes.

Q. Now Fisch, he was your best friend, wasn't he? A. Not my best friend.

Q. Now you say he wasn't your best friend? A. I can't say the best friend, he was—

Q. Will you say that you didn't tell people he was your best friend? A. He was my best friend, what I say, in business.

Q. Didn't you tell people that he was your very best and closest friend? A. I got friends dey are just as good, I would say.

Q. Yes. A. Just as dear to me as Mr. Fisch.

Q. All the friends you got have known you only since you are in this country, isn't that right? A. Yes.

Q. Nobody that you know in this country today, none of them outside of your sister, did you know in Germany, did you? A. Oh, yes.

Q. Who? A. Mr. Heim.
Q. Mr. Heim? A. Yes.
Q. Who is he? A. He lives right in New Jersey.
Q. But not Fisch, not Kloeppenburg? A. No.
Q. None of those people? A. No.
Q. Didn't you write letters saying that Fisch was your best and closest and dearest friend? A. Closest?
Q. Well, best friend, I think that is the expression we used before? A. Probably he write a letter.
Q. Probably he write a letter? A. Yes.
Q. But it wasn't true, is that it? A. It is true.
Q. It is true, so you wrote a letter he was your best friend and you think he was, well, one of your best friends? A. One of my best friends.
Q. All right. And he told you to keep this money in the box? A. Not money.
Q. Not the money, the box in a safe place? A. Yes.
Q. He was very sick, you knew that? A. Well, he was sick, but I really—
Q. You thought he would come back? A. That is true.
Q. But you knew he was suffering from tuberculosis, or something like that, you knew that, didn't you? A. I— now, listen. I was asking a couple of time about his sickness; he always said, "Never mind, I am all right."
Q. All right. A. So I think he is O. K.
Q. Well, did you know it? Did you know it? A. I know he was a little bit sick, but I never took it so serious.
Q. Well, he was sick, anyway? A. Yes.
Q. You didn't expect him to die though? A. No, sir.
Q. And here was your sick friend going home, and he asked you to keep this box in a dry place? A. Yes.

Q. You knew from the day he moved into that house that that closet was a wet place, didn't you? You had complained about it all the time, isn't that the fact? A. Complained a couple of times, yes.

Q. From the day you moved into that house you know it was a wet closet, didn't you? A. Oh, I wouldn't say from the first day.

Q. Well, from the six months or so? A. Yes.

Q. You had complained about it? A. Yes.

Q. But even though you knew that was a wet place, it was a wet closet, even though Fisch told you to keep it in a dry place— A. Yes.

Q. He told you there were papers in it, you put it in the closet? A. Because I couldn't go in the front room and I couldn't go in the middle room either when Fisch gave me this package.

Q. You mean that night? A. That night.

Q. Who was going to stop you? Weren't you the boss of the house? Weren't you the master of the house? A. Yes, but I got somebody in the front room; my wife was in the baby's room; and so I put it in this closet, and I forgot all about it.

Q. You didn't want to show it to your wife and you didn't want to show it to your baby, is that it? A. Oh, no.

Q. Well, why couldn't you take it right there, that very night— why didn't you take it there? A. I didn't like to disturb the baby.

Q. You didn't like to disturb the baby? A. Yes.

Q. Well, you didn't have a baby then, did you? A. Yes.

Q. You did? A. Yes.

Q. You didn't want to disturb the baby and you didn't want to disturb your wife? A. That is right.

Q. Is that right? A. Yes.

Q. And you forgot all about it afterwards? A. Yes.

Q. Well, finally, you found it? A. Yes.

Q. You made a mistake, you put it in a wet place; Fisch asked you to put it in a dry place, you put it in a wet place, but you finally found it? A. I found it, that is right.

Q. You found the money? A. Yes.

Q. And you found it because a broom hit it, isn't that right? A. Yes.

Q. There is no mistake about that, is there? A. No mistake.

Q. A broom hit the box and you saw money? A. Yes.

Q. When was that? When was that? What date, what month? You don't know, do you? A. It was the middle of August.

Q. 1933? A. 1933. It was on a Sunday—

Q. Middle of August? A. Yes.

Q. Was your wife home? A. My wife, she was home, yes.

Q. Yes. A. She was home.

Q. And you went to the closet? A. I went to the closet.

Q. And you took the broom? A. Yes.

Q. You were going to take it out, were you? A. I took it out to clean something.

Q. You went to the closet to take a broom out, isn't that it? A. Yes.

Q. And you were going out with it, isn't that right? A. That is right.

Q. And when you did that, walking out of the closet with the broom, you hit that box? A. No, walking that way I couldn't, I couldn't hit the box.

Q. Well, how did it happen then? That is what I want to know. A. Probably the broom was mixed up or there was another broom and stuff laying in the closet.

Q. What shelf on the closet was it? A. The upper shelf.

Q. Upper shelf, top shelf? A. Top shelf.

Q. I want you to take a look at this picture of the kitchen and tell me whether that is a correct picture of the kitchen and the closet, that part of it shown by the photograph? A. Yes, that's right.

Q. That shows your closet and shows your kitchen, does it? A. Yes.

Mr. Wilentz: All right, I offer it in evidence.

The Court: Mr. Attorney General, we will take a recess until 1:45.

The Reporter: S-264.

The Court: Show it to counsel first, please.

(Photograph received in evidence and marked State's Exhibit S-264.)

The Court: We will take a recess until 1:45. The people will remain in the courtroom until the jury has retired. The jury may retire and come back at 1:45.

(The jury retired.)

The Court: The prisoner is now remanded to the custody of the Sheriff, and he may retire.

(The defendant retired.)

The Court: The Court will now take a recess until 1:45.

(Whereupon at 12:30 p. m. a recess was taken until 1:45 p. m.)

(Counsel and Court confer in chambers.)

AFTER RECESS.

(2:11 P. M.)

(The jury was polled and all jurors answered present.)

The Court: The defendant may resume the stand.

BRUNO RICHARD HAUPTMANN resumed the stand.

Mr. Wilentz: May we proceed, if your Honor please.

The Court: Yes. Before you proceed, I wish to notify the officers that from this time forward people will not be permitted to stand in the rear of the courtroom as they are now standing. The situation, I think the officers have somewhat cleared, but they will have to do better from this time forward.

So tomorrow morning and from that time forward, until the trial is finished, after the seating capacity of the courtroom is well filled, the doors will have to be locked and spectators will have to be denied admission, because it is very undesirable, from more than one point of view, that this intense crowding of the courtroom should be further permitted.

I wish the officers would see to that.

Proceed.

Cross-Examination (continued) by Mr. Wilentz:

Q. Now, Mr. Defendant, you stated the other day in your examination, direct examination, that

you changed the brokerage or bank accounts, I don't know which it was, on March 25th, 1933, because you had an automobile accident and you were fearful that there might be some claim against you on account of that; right? A. That is right.

Q. So that I am expressing the substance of your explanation in your testimony accurately, is that right? A. Yes.

Q. Now, the accident you had in October, 1932, October the 17th, 1932? A. Yes.

Q. And you settled that case, didn't you? A. Yes.

Q. And you settled it actually for $300, did you not? A. Three hundred or three hundred fifty, I don't know.

Q. Well, $300 or $350, whichever? A. Yes.

Q. And you settled it before December, 1932, or during 1932, didn't you? A. I don't know when I settled it.

Q. Well, let me show you your book, your book of records, and see if that doesn't refresh your recollection: December, 1932, your first payment of $75— Do you see that? A. December, that is right.

Q. $300. Do you see that? A. Yes.

Q. So that you actually had settled the case for $300 in December, 1932, and you made the first payment of $75 in that month, isn't that so? A. Yes.

Q. So that in March, 1933, you didn't have to worry about that automobile accident, nor any claim, did you? A. I guess there was something coming up.

Q. What was the something you guessed was coming up? A. I guess he said he wants more money, something was coming up. I guess he wasn't satisfied, the gentleman, with the money.

Q. You settled it finally for $300, did you not? A. Yes.

Q. It never was changed? A. Never was changed.

Q. It still remained $300? A. Yes.

Q. And that was in December, 1932? A. Yes.

Q. But still in March, 1933, you changed your accounts, bank and brokerage, to your wife's maiden name? A. May I see my bank book?

Q. Well, that is your testimony. Certainly you can see your bank book. A. I can't remember when I changed—

Q. Yes. Well, we will show it to you (showing book to the witness).

Mr. Wilentz: I offer this book. I think one page of it is already in evidence, marked Exhibit S-257. I will offer the book.

Mr. Pope: For what purpose?

Mr. Wilentz: I don't know; whatever the book may reveal.

Mr. Pope: Well, we object to it as incompetent, irrelevant and immaterial, and not a proper exhibit to be offered at this time and on our case, but probably a part of the State's direct.

The Court: What is your theory about the admission of the book, Mr. Attorney General?

Mr. Wilentz: Well, if your Honor please, with particular reference to these entries, they contradict his testimony or attempt to discredit him, we submit; and rather than cut out pages each time and have each page marked separately, this being his book and it being

contained in his book, I think it is very evidential.

I may ask him if it is his book, if your Honor please.

The Court: I think that that ought to be done.

By Mr. Wilentz:

Q. Is this your book, this address book? A. It is; but may I look inside of it?

Q. Yes; certainly you may. A. (Witness examined book page by page.)

A. (Witness looks at book.)

Q. If there is anything in there that you think isn't in your handwriting, just mark it. A. Not mine.

Q. Put an X there with a circle around it, that page. A. (Witness marks book.)

Q. How about the next one? The X with the circle around it indicates a page not in your handwriting, is that correct? A. Yes, correct.

Q. All right, is that the only one? Well, if you have any doubt about it you can put an X on that, too, if you are not sure. A. (Witness marks page.) I am not sure.

Q. You are not sure. All right. Then the book is in your handwriting, it is your book, and for two pages you have marked X are not in your handwriting? A. (Witness shakes head.)

The Court: It may be admitted.

(The book was received in evidence and marked State's Exhibit S-265.)

Q. Now, a while ago we were talking about this

little book in which you have in ink many of the entries which you had in pencil in the other book, your accounts and your balances? A. Yes.

Q. This is your book, is it? A. It is.

Mr. Wilentz: Well, then, I offer this book in evidence, if your Honor please, subject to the—

The Court: Has he stated that the writing is his writing?

Mr. Wilentz: Have you— I don't think he has looked at every page.

The Witness: No, I didn't.

Q. Suppose you do that, you see the Alverez Mining Company on there, is that yours? A. That is mine.

Q. That is yours. Does this page look like yours? A. Yes.

Q. That is yours, that is yours? A. Wait until I look at it. (Witness examines book.) That is not mine.

Q. Just the last line. Take the pencil and draw it through it. A. (Witness draws pencil through last line.) That is not my writing.

Q. Cross out the whole page if most of it isn't yours. A. (The witness examined a small notebook at length.)

Q. Put an "X" on that page with a circle around it, meaning that is not your writing. A. (Witness continued examining book, marking occasionally.)

Q. All the rest is yours? A. Yes.

Q. Whose writings are on the pages, do you know; your wife's? A. Some friend's.

Q. Some friend's writing.

The Court: Mr. Attorney General, was that book offered in evidence?

Mr. Wilentz: Yes; I offered it in evidence, if your Honor please.

The Court: Is there any objection to it? There seems to be none, and it will be admitted.

(Notebook received in evidence and marked State Exhibit S-266.)

Q. You met Mr. Fisch at the Henckle's home, didn't you? A. I met Mr. Fisch at Hunter's Island.
Q. Weren't you introduced to Mr. Fisch by the Henckles? A. We knowed each other before.
Q. You knew who before? A. Fisch and I.
Q. Fisch and you? A. Yes.
Q. Fisch lived with the Henckles, didn't he? A. He lived in the same house.
Q. The same house? A. Yes.
Q. And you met Mrs. Henckle in the summer time at Hunter's Island, 19— A. About June, yes.
Q. June, 1932? A. Yes.
Q. While your wife was away? A. Yes.
Q. And you met Fisch at Hunter's Island? A. Before, yes.
Q. Not with Mrs. Henckle? A. Not with Mrs. Henckle.
Q. Not through Mrs. Henckle? A. Not through Mrs. Henckle.
Q. Now, Hauptmann, isn't it a fact that you are saying that you met Fisch before June because you are attempting to account in that way for the moneys that you deposited before June? A. Positively not.
Q. Didn't you tell to the police in your explanation of how you met Fisch that when you went to

the Henckle home to meet Mr. Henckle, Mr. Fisch came into the house, and they introduced you? A. But we knowed each other before.

Q. Didn't you say to the police at the Bronx, when they asked you, "How did you come to meet him?" meaning Mr. Henckle, "Who introduced him?" Didn't you answer as follows: "I was sitting with the family named Henckle; he was boarding in the same house. Mr. Fisch used to be upstairs and he often came downstairs for company." Didn't you say that? A. Probably I said that, yes.

Q. And they asked you where did you meet him, didn't you say 127th Street? A. Yes.

Q. Isn't 127th Street the Henckle home? A. Yes.

Q. Isn't that where you met him? A. Yes.

Q. Isn't that where you were introduced to him? A. But it doesn't mean first.

Q. Oh, you forgot to put first in. Didn't they ask you who introduced you to him and didn't you say at the Henckle home that you were sitting with a family named Henckle, that is when you were introduced to him? A. Well, I say we know each other long before.

Q. You didn't tell that to the police though, did you? A. Well, this came too sudden.

Q. It can't be certain? A. Came too sudden.

Q. Came to sudden? A. Yes.

Q. When they asked you where you met Fisch you told them you met him at Henckle's home, didn't you? A. Yes.

Q. All right. Let's stay there for a minute. There you were in the police station, you told them that you had gotten this Lindbergh ransom money from a man by the name of Fisch? A. Yes.

Q. You were trying to clear yourself of this story? A. No, sir.

Q. They asked you then about Fisch, didn't they? A. I can't remember.

Q. And they said to you who introduced you to Fisch and you told them at the Henckle home. A. I practically can't remember any question he put at me at this time.

Q. Well, you know that this business of Mr. Fisch— that was your story at the time and they were getting from you the explanation as to how you met him and when you met him, and all about it, and you told them you met him at Henckle's, isn't that so? A. I really can't remember what I said.

Q. And didn't you say to them that you met him in July, 1932? A. Can't remember what I said.

Q. Will you say that you didn't tell the police, when you were first asked, that you met him in July, 1932? A. Well, to tell the truth, I really can't remember the questions the police put at me this time.

Q. When did you meet Fisch? A. First part of March or first part of April.

Q. After March the 1st? A. After March the 1st.

Q. No question about that? A. I guess I am sure about it; it was after.

Q. You are sure about that. Now, take a look at these ransom notes. You have seen them all anyway, haven't you? You have seen all these notes, haven't you? A. Yes.

Q. You saw them in The Bronx and you saw them here? A. Yes.

Q. And you have listened to the testimony about them for days? A. Yes.

Q. You have seen large reproductions of them here? A. I did.

Q. Does it look as if somebody copied your handwriting? That is the way it looks, doesn't it? A. Well, I am not familiar mit handwriting experts and so on.

Q. Well, you are familiar with your handwriting, aren't you? A. Yes, I am.

Q. It looks as if somebody copied it, doesn't it, imitated your handwriting, doesn't it; some of these anyway? A. That is possible, yes.

Q. Well, does it look that way to you, that some of them were imitated, somebody copied them? That is the way it looks, doesn't it? A. That is the way it looks.

Q. That is the way it looks. Now, just stay there a minute. Some of these notes, as you saw them, and as you have seen them, it looks as if somebody copied your handwriting, isn't that the way it looks? A. (Nodding head.)

Q. You are shaking your head and the stenographer doesn't get it. A. There are some figures in the handwriting looks like mine.

Q. It looks like somebody copied it, isn't that right? A. Yes.

Q. All right. Now, before March 1, 1932, Isidor Fisch didn't know you and you didn't know him, did you? A. I didn't know him, but I don't know if he didn't know me.

Q. You didn't send him any letters, did you, before March 1, 1932? Did you? A. No, I did not.

Q. He wasn't in your home before March 1, 1932, was he? A. No.

Q. So Isidor Fisch didn't write the ransom notes, did he? A. I never said that.

Q. I know you didn't, but you know Isidor Fisch didn't copy your handwriting, don't you? A. I don't know.

Q. He didn't know you then or you didn't know him? A. I didn't know him.

Q. You had no business with him? A. No.

Q. You don't say now that Fisch wrote those notes, do you? A. I don't— I can't say anything about them notes.

Q. Can't say anything. All right, sir. But it looks like your handwriting, doesn't it, Mr. Hauptmann? A. Some of them figures look like my handwriting.

Q. Yes. Now we will get back to Mrs. Henckle for a minute. You visited at the Henckle home quite frequently, didn't you? A. Yes.

Q. What business was Mr. Henckle in? A. Painter.

Q. And in 1933 you were there quite frequently, weren't you? A. You mean 1932?

Q. 1932, 1933 and 1934. A. Well, not so very often.

Q. You used to stop in in the mornings, didn't you? A. Sometimes.

Q. Stopped in to see Mrs. Henckle in the morning, didn't you? A. To see Mr. and Mrs. Henckle.

Q. Well, Mr. Henckle wasn't there when you got there, was he? A. Well, he didn't work steady.

Q. When he was working he wasn't there, was he? A. Of course, he couldn't be there.

Q. Certainly not. But you stopped in just the same, didn't you? A. Yes, I did.

Q. Visiting Mrs. Henckle in the mornings on your way to the stock market; is that it? A. Yes.

Q. Now, you gave her a Christmas present, too, in 1933, didn't you? A. I don't think so, in 1933.

Q. Well, what year did you give her a Christmas present? A. I guess 1932.

Q. 1932? A. Yes.

Q. Henckle used to go to work at six o'clock in the morning, didn't he? A. I don't know.

Q. Well, you know when you got there he wasn't there, you know that? A. Sometimes he was, sometimes he was not.

Q. Did you have your coffee there in the morning? A. Sometimes.

Q. Have breakfast there in the morning? A. No, sir.

Q. Well, when you would have coffee in the morning with Mrs. Henckle, what would that be, the second cup of coffee, or was it the first? A. Well, sometimes I am came in, came in, said "Do you want a cup of coffee?" I took a cup of coffee.

Q. Sure. You would have the coffee. About what time in the morning would that be that you would have the coffee? A. Nine.

Q. Nine o'clock? A. Nine o'clock, quarter after nine.

Q. Well, that would be the second cup that you would have, wouldn't that be, that day? A. That is right.

Q. You always had the first cup in the morning with your wife? A. Yes.

Q. You always took her to work in the morning, didn't you? A. Now, listen; my wife worked only till '32.

Q. Well, while she was working, you would take her to work and have a cup of coffee with her in the morning; wouldn't you have breakfast? A. Sometimes, sometimes not.

Q. Well, after 1932 you were no longer a carpenter, you no longer were working regular hours, so you had time, didn't you? A. I still was a carpenter.

Q. Well, you weren't working at it, though? A. Once in a while, but not steady.

Q. 1933, you continued to call at the Henckle home in the morning, didn't you, at nine o'clock about, or ten o'clock? A. I sometimes went in between nine and ten on my way down.

Q. And when Mr. Henckle was there you were surprised, weren't you? A. No, sir.

Q. No? A. (Shakes head.)

Q. Did you go to visit Henckle or did you go to

visit his wife? A. I go to visit Mr. Henckle and—

Q. But— A. —and Mr. Kloeppenburg.

Q. Kloeppenburg? A. Yes.

Q. You would go to visit Mr. Henckle, but sometimes you would have hard luck and only Mrs. Henckle was there; is that it, is that what you mean? A. No, I only stayed for five minutes, ten minutes; I made out appointment for playing cards or something.

Q. Would you make the appointment for playing cards with Mrs. Henckle? A. If there was nobody there, yes.

Q. You met her at Hunter's Island, didn't you, while your wife was in Europe? A. Yes.

Q. And nobody introduced you to her, did they? A. (No answer.)

Q. And nobody introduced you to her, did they? Oh, I think you said you don't need any introduction in Hunter's Island. A. Her family was there camping right next to us.

Q. Mrs. Hauptmann, when she came home, didn't like the new friendship, did she? She complained about it, didn't she? A. Not— she didn't like it so well much.

Q. She didn't like it so well. That didn't make any difference to you, you still continued the friendship with the Henckles? A. Well, she didn't say for me to stop it, not to go down there.

Q. No. Did you take Mr. Henckle out on hunting trips, gunning trips? A. Well, he invited me.

Q. He invited you? A. Yes, sir.

Q. Did you go along with him? A. Yes.

Q. You used to say there late at night at the Henckle home? A. Well, sometimes we was playing cards.

Q. Late at night until the early hours of the morning? A. Oh, usually one o'clock.

Q. Mrs. Hauptmann didn't like that, did she,

you staying out away from her, did she, at the Henckle home? A. Oh, sometimes she was along.

Q. Yes, but she didn't like your being at the Henckle home away from her, did she? A. Well, I say she sometimes came along with me. We was together down there. Sometimes the Henckle family was in our house.

Q. Didn't Mrs. Hauptmann tell you not to bring Mrs. Henckle to your home? A. I can't remember that.

Q. Will you say that she didn't tell you? A. I can't remember my wife ever said anything to me like that.

Q. Didn't you have a fight with her about it, and she said, "I don't want that woman in my home?" A. No.

Q. Didn't she say to you, "Richard, you are acting awfully funny since I came back from Europe; what's happened to you?" A. No, sir.

Q. Didn't you pay all the expenses for Mr. Henckle when you went up on this trip? A. I paid only for the gade— guide.

Q. For the guide? A. Yes.

Q. What expenses didn't you pay? A. Other expenses we split half and half.

Q. Didn't you buy a gun for the hunting trip? A. Yes, I did.

Q. Did you pay for that? A. I paid for it.

Q. Where did you buy that gun? A. I don't know where I bought it.

Q. What gun was that? A. It was a rifle.

Q. A rifle? A. That is right. I paid it for him because in the summer time I got many times my supper by family of Henckle and I didn't pay anything at all and so I paid him the rifle for it.

Q. You used to leave your car parked pretty near all day in front of the Henckle home, didn't you? A. No, sir.

Q. You didn't? A. Didn't.

Q. Where did you have your meals, Mr. Hauptmann, during 1932, March to April to May, etc.? A. My meals?

Q. Yes. A. Hardly can remember.

Q. Hard thing to remember? A. Yes.

Q. Why? It was just you and your wife? A. You probably mean when my wife was away, don't you?

Q. No, I don't mean when your wife was away. I mean when your wife was not away, March, 1932. Was she away then? A. March, '32?

Q. Yes. A. I—

Q. Up in Jamaica? A. No.

Q. Kingston? A. No, sir. This time my wife was working and I was working.

Q. Then she was home? A. Yes.

Q. That is the time I mean. Where did you have your meals? A. At home.

Q. At home? A. Yes.

Q. Breakfast? A. When I was working I took breakfast along.

Q. When there wasn't work, where did you have breakfast? A. In a restaurant.

Q. In the restaurant? A. Yes.

Q What restaurant? A. When I was around Sixth Avenue.

Q. Not the restaurant Mrs. Hauptmann worked at? You don't mean that, do you? A. This restaurant was up in The Bronx. I can't travel fifty miles for breakfast.

Q. No, I am not talking about the time when you were working. When you were not working, where did you have breakfast? A. When I was not working?

Q. When you were not working? A. I got breakfast in the bakery from my wife.

Q. Where did you have your lunch? A. Lunch?

Whenever I was home I cooked myself something, when I was out, in a restaurant.

Q. What restaurant? A. Just depends, where I was.

Q. Which place did you frequent, where did you go often? I don't want every restaurant, where you usually went, I mean. You see, we want to find out what you were doing around March 1st, that is why I am asking you the question. A. This time I didn't have any usual restaurant at all.

Q. How about dinner time? Supper time, at night? A. In the bakery or at home.

Q. Either bakery or at home? A. Yes.

Q. If there was any restaurant you ate regularly, you have forgotten about it? A. There is no restaurant I ate reguarly.

Q. How about Hahn's, Fritz Hahn's restaurant? A. That was not regularly.

Q. Didn't you go there with your friend Kleoppenburg? A. Sometimes.

Q. Didn't you bring your wife there? A. Yes.

Q. Didn't you have Mrs. Hahn visit you at your home? A. Yes.

Q. Didn't you have Mr. Hahn visit you at your home? A. I don't know about Mr. Hahn.

Q. You were customers there? A. Yes.

Q. So you say you don't know whether he visited— A. I am not quite sure.

Q. You used to be in his place very often? A. I was.

Q. You used to talk about the Lindbergh case in there? A. I can't remember.

Q. You listened to the radio the night that the word came over the radio that the Lindbergh child's was found; you were there, weren't you? A. I don't know.

Q. And you rushed right out, didn't you, that night? A. I?

Q. Yes, you. You, Hauptmann; didn't you? A. No, sir. I can't remember when I hear it the first time even.

Q. You can't remember? A. I don't know when I hear it the first time.

Q. But you were a customer of the Hahns, weren't you? A. Yes.

Q Why didn't you tell us so a minute ago? Are you afraid about the Hahns? A. No. I told you there are so many restaurants that I really don't know.

Q. Did you have any other restaurant keeper come to your house like you had Mrs. Hahn? A. (No answer.)

Q. You don't remember? A. No, I don't think so.

Q. Did you ever have any other restaurant keeper come up and show her the clothes that you bought for your wife, the dresses, on her way to Europe, after the ransom money was paid? A. You mean I bought my wife dresses since?

Q. Did you have any other restaurant keeper up at your house to show your wife's dresses to her, when your wife was leaving for Europe in May, 1932?

Mr. Pope: Now, we object to the question because there isn't a particle of evidence in the case that he ever had any restaurant keeper or anybody else up at the house and showed his wife's clothes. In other words, the question assumes something which is not in evidence, and which has no basis in fact.

The Court: I do not see its materiality at the moment.

Mr. Wilentz: All right, if your Honor please.

The Witness: I will answer the question, your Honor.

Mr. Wilentz: Well, I think that—

The Court: Well, if you want to answer the question you may answer it.

A. I never pay a dress for my wife; she always pays it herself.

By Mr. Wilentz:

Q. The question was, was there any other restaurant keeper or proprietor, outside of the Hahns, with whom you were friendly enough to have come to your house? Now, that question was objected to; the Court sustains it. Do you still want to answer it?

Mr. Pope: That wasn't the question that was objected to.

A. My brother-in-law.

A. My brother-in-law, he got a restaurant, he came in my house.

Q. Your brother-in-law? A. Yes.

Q. So you did eat Hahn's, once in a while. A. Yes.

Q. Did you not? A. Yes, I did.

Q. You remember around March 1st you went in the restaurant the first, or the second, the third, or the fourth, at night, in the night time? A. Well, which year do you mean?

Q. 1932. A. That is one thing I can't remember.

Q. Do you remember some time around the first week of March or the middle of March when you came into that restaurant Mr Fritz Hahn hollered

to you, "Richard, how is your leg," right across the restaurant; do you remember that? A. No, sir.

Q. And you said absolutely nothing, do you remember that? A. Will you fix a date, set the time?

Q. About the middle of March, maybe the first week of March, after the first of March? A. I really can't remember in dis time, I was in his restaurant at all, I don't tink so.

Q. You don't think so? A. No, sir. I guess I am positively sure I was not.

Q. Well, were you in there in March at all, 1932? A. Give me a chance to think a little bit.

Q. Yes. You can have a chance A. I can't remember, but I hardly tink I was in.

Q. I see.

Q. Do you know what this is, Mr. Defendant? (Exhibiting the plank S-204 to the witness.) You do, don't you? A. A piece of board, yes.

Q. From your house? What is the number of this board, do you know? It is S-204. A. I really don't know if it is from my house. That is a piece of trimming and a piece of trimming from every house looks the same.

Q. That is from your closet, isn't it? A. I am not quite sure.

Q. You are not quite sure? A. No.

Q. That is your handwriting on there, isn't it? A. No.

Q. What? A. No, sir.

Q. That is not your handwriting? A. (Shaking his head.)

Q. You take a look at that. You have seen it many times before. I will take the paper off for you so it will be easier (counsel removed the cellophane wrapper on the board). Take your time about it now. First, tell me, are the numbers your handwriting? A. The numbers look familiar upwards. I can't remember for putting it on.

Q. Just keep looking at those numbers and tell me whether or not they are in your handwriting and that you wrote them, the numbers? A. I can't remember putting them numbers on.

Q. Did you remember better when you were talking to District Attorney Foley? A. At that time I was quite excited.

Q. Were you excited when you got before a Supreme Court Justice in the State of New York in your extradition proceedings? A. I say yes.

Q. You didn't tell the truth there, you mean? A. Well, I was quite excited then.

Q. Do you remember that you had a hearing before a Supreme Court Justice by the name of Mr. Justice Hammer in the Bronx court house in New York? A. I remember that, yes.

Q. Do you remember why you had the hearing, that you did not want to come to New Jersey to face the charge that you are now facing? Do you remember that? A. I don't know what is the reason for this.

Q. Well, you were fighting extradiction proceedings, weren't you? A. I don't know what it, what it means.

Q. And you were asked this question with reference to Exhibit 204—

Mr. Reilly: Page, please.

Mr. Wilentz: 83.

Q. Finally you were asked thie question: "Finally one day thereafter you were brought in and questioned by District Attorney Foley, were you not?" and your answer was "Yes." "And District Attorney Foley asked you if you recognized a certain piece of wood or lumber, do you remember that?"

And your answer was "Yes." Is that correct? A. I will—let's explain before you read further—

Q. No. Wait a minute. I am going to let you explain when I find out what your answer is. Did District Attorney Foley ask you— No. Withdraw that. Isn't this the question that was asked of you in the Bronx County Court before a Supreme Court Justice while you were under oath? A. I can't remember the, what the question was.

Q. "And District Attorney Foley asked you if you recognized a certain piece of wood or lumber, do you remember that?" And your answer is "Yes." Is that correct? A. Well, I really can't remember what—all the questions.

Q. Now, the next question, "And you said yes, that was your handwriting, is that so, yes." Is that correct?

Mr. Reilly: Just a moment. That isn't his answer.

Mr. Wilentz: That is the question.

Mr. Reilly: That is the question, but that is not his answer.

Mr. Wilentz: Well, we are getting to that.

Q. Isn't that the question "And you said, 'Yes,' that was your handwriting, is that so, yes." Was that question put to you? A. I really can't remember this question.

Q. Then the Court says—he can't remember the question—then the Court says: "You better mark this Exhibit A." You see this Exhibit A—Ex. A, referring to the board. A. I see it.

Q. You see it? A. All right.

Q. And then the next question that I asked you

in The Bronx, so that when you looked at Exhibit A, which was presented to you by the District Attorney of Bronx County, and you looked at the handwriting thereon, you said that was your handwriting, isn't that so, and your answer there was "I said that is my lumber; I could not make out the handwriting." Do you remember that? A. I can't remember them questions.

Q. Did you say that was your lumber, but that you couldn't remember the handwriting in the Bronx court? A. I guess I did.

Q. You guess you did? A. But you see if anybody shows me a piece of lumber, that is, a piece of trimming—

Q. Yes. A. —you will find the piece of trimming in every house.

Q. Why didn't you say so in The Bronx instead of saying this was your lumber? A. Well, I didn't think at all.

Q. You didn't think at all. All right, then, we will come to the next. Your answer was, "I said that is my lumber, I could not make out the handwriting." Now, the next question, "You said the number on there is your handwriting," do you remember that question? A. No, I don't.

Q. You mean to tell me that you don't remember being asked the question about the number on the lumber? A. There was so many questions that I can't separate it.

Q. And didn't you answer "Yes" to that question? You said the number on there is your handwriting, yes, in the Bronx Court, before Supreme Court Justice Hammer—didn't you say yes? A. I can't remember this.

Q. Will you say that you didn't say "Yes"? A. No, I said nothing about it.

Q. You said nothing about it? A. No.

Q. Why, didn't we spend a half hour on that

lumber in that court? A. I don't know how much you spend on it.

Q. Well, you remember, do you—you were there, weren't you? A. I suppose I was there.

Q. Sitting on the stand? A. Yes.

Q. You suppose you were there? A. (The witness nods.)

Q. You suppose you were in the Bronx, in the courthouse? A. Yes.

Q You know what the hearing was about, don't you? A. No, I really don't know what the hearing was about.

Q. You don't know about it? You don't know about it? A. No.

Q. And then you were asked this question: "What about the Decatur"—and you were shown the word on the board—"What about the Decatur?" And your answer was, was it not? "A. I could not make out whether that was my handwriting and numbers." Do you remember that? A. (No answer.)

Q. "I could not make out whether that is my handwriting or numbers." A. There was many questions about it.

Q. You answered the question; was that your answer, in the Bronx Court House? A. I can't remember my answer.

Q. You can't remember your answer. Now let me give you the next one: "The numbers are in your handwriting, are they not?" You remember being asked that again; and you said "They are." Do you remember that? A. That's what I said, I can't remember what I said of it.

Q. Didn't you swear in the Bronx County Court House before Supreme Court Justice Hammer, swear unto God, that it was? A. I did.

Q. You did.

Q. And the numbers you talked about were 2974,

isn't that so? It is a little blurred now, isn't it? A. Looks like it.

Q. It looks like 2974, and the numbers down here, 3-7154, isn't that right? Take a look at it. You don't wear glasses, do you? A. No, I don't.

Q. You can see pretty well, can't you? A. Not so very well.

Q. Not so very well? A. No.

Q. All right then. Do you want it closer? A. No, that is all right.

Q. Do you see it, 3-7154? A. Yes.

Q. And between those two numbers are some words, it looks like "Decatur" first and "Sedgwick" second, you see that, don't you? A. I can't make it out.

Q. You can't make it out. All right. Now, I was just talking to you about your testimony before the Supreme Court of the State of New York in the extradition proceedings of the State of New Jersey against you, and you have just told us about it. Now, were you before that time, however, before Mr. Foley, the District Attorney of The Bronx, and he spoke to you about this piece of lumber, which is Exhibit S-204. You remember him talking to you about that? A. Yes, I remember that I never could quite make out right if this was my writing or not.

Q. We will come to that. I want to see what you told him.

Q. (Continuing) "Hauptmann, I want to ask you some questions about this board. You know it is from the closet in your own house, don't you?" And your answer was, "It must be." Is that correct, do you remember that? A. I can't remember every single question he put at me.

Q. No, I know you can't remember every single question, but you ought to remember something about that number. You know what that means,

don't you, that number and that address on there? A. Not exactly.

Q. Well, you know it is Dr. Condon's address and telephone number, don't you? A. I know it now.

Q. You know it now. All right. You knew when Foley was talking to you about it, didn't you, that he was talking about Condon's telephone number and address on this board? A. No, I did not.

Q. You didn't? All right, we will come to it then. The next question he asked you: "It is the same kind of wood, your handwriting is on it?" Do you remember that question? A. I told you I can't make out any single question he put at me, there was so many questions.

Q. Well, you could remember your answer, if you had such a question, couldn't you? A. I hardly think so.

Q. You hardly think so. A. Because there was hundreds, hundreds of questions.

Q. Didn't you know that the State was charging that you got $50,000 from Dr. John Condon? You knew that was part of the charge, didn't you? A. Yes.

Q. Didn't you know that Dr. Condon was an important figure in this case, didn't you know that? A. I learn it after.

Q. Didn't you know that if you had Dr. Condon's telephone number and address on the inside of your closet, that that was a serious thing so far as you were concerned? A. I never was thinking about it.

Q. Didn't Mr. Foley ask you about it? A. I can't remember that.

Q. You can't remember? Well, if Foley showed you this board and asked you whether that is your handwriting, Condon's address and telephone number, and if it wasn't you would know it, wouldn't you? A. Well, he showed me dis piece of board.

Q. Yes. A. And about the numbers and the handwriting—

Q. Yes. A. —but right from the beginning I said I—

Q. You don't know? A. —can't remember ever putting—

Q. You can't remember it? A. —putting this on.

Q. Right from the beginning you said it? A. Yes.

Q. Just listen to this answer then, and tell me whether or not you made it: "It is the same kind of wood your handwriting is on it? A. Yes, all over it." Did you make that answer? A. No, I don't think so.

Q. You don't think so? A. No.

Q. You couldn't be mistaken about something as important as this, could you? Did you say it wasn't? A. I—

Q. Pardon me. A. I can't remember I ever said something like that, "all over it."

Q. Well, let me then— A. I don't think so.

Q. You think maybe you didn't say "Yes", all over it"? A. (Witness shakes head) No, sir.

Q. Well, let me see, we are coming to another part of it. Do you remember the next question: "What did you write on that board, read it to the stenographer?" And you answered, did you not, "I can't read it any more." Do you remember that? A. No.

Q. And do you remember the next question: "Who rubbed it out? Can you read the address on it?" And your answer was, "2974, I can't make out the first. I read the number down below, 37154." Do you remember reading the numbers just as I have given it to you? A. Yes, he gave me a big glass.

Q. A glass, a magnifying glass? A. A magnifying glass, and that is how I could make out the numbers.

Q. And so you gave him the numbers when you got the magnifying glass, is that it? A. Yes.

Q. And Mr. Foley asked you "What else can you read on that board that you wrote yourself?" And you kept the magnifying glass and you answered as follows, did you not, "I can't read, that is 'A', 'T', 'U', 'R', another one I can't make out." Do you remember that? A. I guess this was like that.

Q. Yes. You looked at this board and out of the "Decatur"—D-e-c-a-t-u-r—all you could read was a-t-u-r, and you said "Another one I can't make out."

Mr. Pope: We object to that question, because the witness has never said that he ever read "Decatur" on there.

Mr. Wilentz: He never said what?

(Pending objection read by the reporter.)

Mr. Wilentz: I said out of the Decatur he was only able to read those—

Mr. Pope: That is merely the conclusion of the Attorney General, that the word is intended to be "Decatur." It is for the jury to determine what the word is intended for.

Mr. Wilentz: That is the fact.

The Court: Well, of course, but the Attorney General is cross-examining this witness, a fact that it seems to me you are inclined to overlook. I think the question is proper.

Mr. Pope: He is examining him upon something which is not based upon any direct premise.

The Court: Well, that is your notion about the thing; I have a different notion.

Mr. Pope: May we have an exception?

The Court: You may have your exception.

(Exception allowed, and the same is signed and sealed accordingly.

(s. s.) THOMAS W. TRENCHARD,
Judge.

Q. So you did read those letters that I have just read, did you not, the "a" and "t" and "u" and "r"? A. No.

Q You didn't read that? A. No.

Q. You didn't answer "I can't read," you didn't answer that? A. I read it through the glass.

Q. The magnifying glass. Did you read some of the letters, "a," "t," "u," and "r," and say "The others I can't make out"? A. I guess I did; I am not quite sure.

Q. Then Mr. Foley said to you "That is Dr. Condon's address, isn't it?" And you answered, "I don't know." Do you remember that? A. I can't remember whether I said I don't know.

Q. Don't you remember him saying to you, "That is Dr. Condon's address," and you saying, "I don't know"? A. Well, I guess I was right, because I didn't know it.

Q. You guess you were right: is that your answer? A. I said—

Q. You didn't know? A. I didn't know it.

Q. What I want to know is whether Mr. Foley asked that question and whether or not you answered it in the way I have just read it. Did Foley ask you this question: "That is Dr. Condon's address, isn't it?" And did you answer it, "I don't

know"? A. I can't remember this particular question.

Q. You can't remember it. Did he say anything to you about Condon, that this was Condon's address and telephone number? A. I guess he said something, but I can't remember what he said.

Q. Well, he was talking to you about the Lindbergh case, wasn't he? A. Yes, sir.

Q. And he was talking to you about the telephone number of somebody, and address of Condon: isn't that what he was talking to you about? A. That is what he told me after.

Q. And he was talking to you about this board, wasn't he, this piece here, S-204, wasn't he? A. I guess it was this one.

Q. You guess it was? You are doing a lot of guessing this afternoon about this board, aren't you? A. Oh, no.

Q. You're not, hey? All right. Then listen to the next question. Do you remember him asking you, "Why did you write it on the board?" Do you remember that? Do you remember the question? A. I can't make out them single questions.

Q. Now, do you remember this answer to that question: "I must have read it in the paper about the story. I was a little bit interest and keep a little bit of a record of it and maybe I was just in the closet and was reading the paper and put down the address;"—do you remember that? A. Not exactly; I—

Q. Will you say that you didn't? A. I don't want say that, I didn't—

Q. You don't want to say you didn't answer Mr. Foley that, do you? A. I really can't say yes or no about it.

Q. You can't say yes or no. All right; we will let it go at that for the minute. A. Yes.

Q. You don't want to say yes and you don't want to say no? A. (Nods head.)

Q. That is to say you don't want to say yes or no to this: that you told Foley that you must have read it in the paper, the telephone and the address of Dr. Condon, you were a little bit interested, and you kept a little bit of a record, and maybe you were in the closet and were reading the paper and you put down the address. You won't say yes or no, that that was what you told him? A. I guess I told him something about it.

Q. What do you think you told him? A. I—

Q. Now, we will give you a chance to tell just what you thing you did tell him. A. Yes.

Q. Tell us, please. A. That is a habit, when I read something in the paper or something in a book—

Q. Yes. A. —that I make a notice on a, mostly I put it in the kitchen. When you look through my kitchen I guess you find plenty of notice like that.

Q. Well, why didn't you say so in the first place, instead of stalling with me and fighting with me: you have a habit of writing down telephone numbers, isn't that it?

Mr. Pope: Now, this—

Mr. Wilentz: Please.

Mr. Pope: There is no evidence of stalling. The witness has answered the question.

Mr. Wilentz: I think there is evidence that he has been stalling for a half hour with me on this thing.

Mr. Pope: May we ask that the Attorney General be admonished for those remarks?

The Court: I decline to admonish the Attorney General.

Mr. Pope: And that the jury be instructed to disregard them?

The Court: I decline to make any such instruction.

Mr. Pope: May we have an exception?

The Court: Yes, sir.

(Exception allowed and the same is signed and sealed accordingly.)

(s. s.) THOMAS W. TRENCHARD,
Judge.

Q. Now, Mr. Hauptmann, what you mean then is this, that you have got a habit of writing down telephone numbers and addresses of things that are interesting; isn't that right? A. Yes.

Q. From the paper. A. From the paper or—

Q. Or from anything else? A. From books.

Q. Yes And you must have read this in the paper, and you were near the closet, so you wrote it down; that is what you mean, isn't it? A. There is a possibility, but I can't remember—you took this piece of wood, you said you took this piece of wood from the closet, and it is impossible to stay inside in the closet and to write or read.

Q. That is— A. That is, I guess that is what you said, or Mr. Pope meant, and so I said it is impossible that I would ever put this on this board.

Q. Well, you know you wrote some of it; you know that, don't you? You remember that. A. But I am positively sure I wouldn't write anything in the inside of a closet.

Q. You know that part of it, part of the numbers are your handwriting; you know that, don't you? A. It looks like it.

Q. Yes. Well, you know it is; you have said so many times, in the Bronx A. I don't say it is.

Q. Well, didn't you say in the Bronx many times that you wrote the numbers on? A. I said it looks like.

Q. You told Mr. Foley that it was, and you told me in court that it was, in the Bronx, didn't you? A. (No answer.)

Q. And didn't you say at that time that the reason you wrote it in there was just like you said a minute ago, that you had a habit of writing those things. A. Yes, I said so, but that doesn't—

Q. And that is why—sir? A. That doesn't include this board. I wouldn't make any notice on the inside of a closet where you have no chance to stand to write or read, it is impossible.

Q. In the closet, no chance to stand to write or read in the closet, that is why you put it in the closet, you didn't think anybody could find it, isn't that why you put it there? A. No, I make notice sometimes when a person is born that means his birthday, I want it in a place where I can see it.

Q. That is why— A. No, that is why I always put it in the kitchen.

Q. Now let me get back to your question and answer and don't get me off the track again. Did you tell Mr. Foley that that was your handwriting? We will start all over again. A. Yes, all over again. I don't know, sir, that I did.

Q. You think you did? A. I think I did not.

Q. Did you say to Mr. Foley when he asked you why did you write it on the board, do you remember that question, and you said to him substantially what you have just told us here, "I must have read it in the paper about the story. I was a little bit interest

and keep a little bit record of it and maybe I was just on the closet and was reading the paper and put down the address." Did you say that? A. I say I don't know if it is exactly what I said to him.

Q. It sounds all right? A. I said something to him, I know.

Q. Something like that? A. Something like it, yes.

Q. Substantially that? A. What does "substantially" mean?

Q. It means practically that, that is what it means, the same thing. A. I said to him something about my habit of writing numbers.

Q. You had a habit of writing numbers? A. No, not numbers—for instance, I am interested in a book and for instance there is a person, when this person was born or that person, and that was why I was interested to remember this in history, I am much interested in history and so I couldn't forget. I always put it on the place. It was usually the place underneath the mirror in the kitchen.

Q. In other words, you were interested in historical events and dates? A. Yes, sir.

Q. And you had the habit of marking down in the kitchen on the wood, is that what you mean? A. Yes.

Q. Were you interested in historical events relating to aviation? A. No.

Q. You were interested in that? A. No.

Q. Do you know who was the greatest aviator for Germany during the World War? A. Yes, I know.

Q. What was his name? A. Richtofen.

Q. What was his first name? A. Manfred.

Q. Manfred Richtofen? A. Manfred Richtofen, yes. Besides I was just reading the book in the jail, and that brings my memory back.

Q. You are reading a book about the greatest

aviator in the German Army in the jail? A. About four weeks ago I read it in the jail here.

Q. Tell me what his name is again? A. Manfred Richtofen.

Q. Manfred Richtofen? A. Yes.

Q. Now, we will get back to this board again and the telephone number or the words written on that board. So that you say now that when Mr. Foley asked you why did you write it on the board you said something to him that you had a habit of writing dates and other things about historical events. A. I told him something, yes, about that.

Q. Well, Mr. Foley wasn't satisfied with that, was he, he asked the next question, "How did you come to put the telephone number on there?" And your answer was, was it not, "I can't give you any explanation about the telephone number." Do you remember that? A. No, I can't.

Q. You can't remember that? A. I can't remember all, in dem days—

Q. I want to know whether you can remember that question and answer and whether or not you gave that to Mr. Foley. A. I can't remember.

Q. You were then talking to the District Attorney of Bronx County, you were incarcerated, you were kept in custody and you were charged, you knew you were being charged with murder by the State of New Jersey. A. No, I didn't know that.

Q. You didn't know that? A. No.

Q. You knew you were arrested in the Lindbergh case. A. Yes.

Q. Yes, sir. You knew the Lindbergh child had been dead, you knew that, didn't you? A. Yes.

Q. You knew somebody had gotten $50,000 or so they said, from Dr. Condon, you knew that? A. That is what I read in the paper.

Q. And you were asked about Dr. Condon's telephone number and home address in your closet on a

board which was then right before you, you remember that. A. Yes.

Q. And today you don't remember what you said to Mr. Foley about that. A. I said I can't remember all them single questions, because there was so many questions at this time.

Q. Can you remember any of them?

Mr. Pope: Let him answer.

Mr. Wilentz: Yes, I think possibly I have interrupted him.

The Court: You may answer.

Mr. Wilentz: Mr. Reporter, before you go out, will you let us have the question and the answer. If he wants to add to it, he may do so.

(Question and answer read by the reporter as follows:

"Q. And today you don't remember what you said to Mr. Foley about that? A. I said I can't remember all them single questions, because there was so many questions at this time.")

Q. You have answered the question then, haven't you? A. (No answer.)

Q. You have finished that answer, haven't you? A. I have finished this answer.

Q. You wanted to tell Mr. Foley the truth, didn't you? A. Yes.

Q. Mr. Foley treated you well, didn't he? A. Very well.

Q. He is a very delightful man, isn't he? A. Yes.

Q. A very fine man? A. Yes.

Q. Yes. And you were sitting in there in his office and he was asking you about it, wasn't he? A. Yes.

Q. And you were answering him? A. Yes.

Q. And there was a stenographer there, isn't that right? A. Well, there were quite a few people in the room.

Q. Yes, but there was a man writing, wasn't there? A. I can't remember seeing anyone writing.

Q. Did you tell the District Attorney at that time the truth when he was talking to you about this board, S-204? A. Well—

Q. You don't know whether you told him the truth? Why don't you answer the question, Mr. Defendant? A. For the first time he brought this piece of wood and he said that's from my closet. Well, anybody can show me a piece of wood like that; you find it in every house. I didn't even think of it, what I said.

Q. Oh, you didn't even think of it. Did you tell District Attorney Foley the truth when he spoke to you about this board, S-204? You might just as well answer it because I am going to stay here until you do. A. The truth? Well, I told him—

Q. Did you tell him the truth? A. I told him the truth, yes.

Q. You told him the truth? A. Yes.

Q. Did you tell the truth about this board in the Supreme Court in New York? A. I—

Q. Why do you hesitate? A. I am not.

Q. Well, then, why don't you answer? Either you did or you didn't. A. You have to give me a chance.

Q. I will give you all day, but you ought to know whether you told the truth in court. A. No, I have to trans— I am thinking in German and I have to

translate it in American language, and it needs quite a bit of time; so excuse me.

Q. Yes, sir. But just the simple question of whether you told the truth in The Bronx courthouse about this board— A. When I told Mr. Foley—

Q. No, please. I am going to ask you the question again. When you were examined in the Bronx County courthouse specifically about 204, did you tell the truth there? A. I was.

Q. Please, will you— A. I was not willing—

Q. Pardon me. Will you please answer the question? Can't you answer it Yes or No, you either told the truth or you didn't? Then you can give the explanation.

Mr. Pope: We think that the witness is trying to answer it and that he should be given an opportunity to do so.

The Court: Yes, he ought to be given an opportunity and I think he is being given an opportunity. The question was as to whether or not he told the truth there. He may answer that and then he may add to anything he desires to add to it by way of explanation. That I think the witness is entitled to.

Proceed, Mr. Attorney General.

Q. Did you tell the truth in the Bronx Courthouse, Yes or No? And then if you want to explain it you may explain it as far as I am concerned. A. Well, I guess I explain it first.

Q. Will you please do us the kindness of abiding by the rules of the court and answer first Yes or No did you tell the truth about this board when you were being examined in the Bronx County Court House under oath about this board? A. Then I say No.

Q. You didn't tell the truth there? A. No.
Q. All right. Now, just stay there for one minute.

Mr. Pope: Wait a minute, now.

A. You want to give me a chance to explain?
Q. Yes, sir.

The Court: He may have it.

A. When I saw Mr. Foley the first time speak about this particular board here I never said Yes and I never said No, because I never could make out and I never could remember ever putting it out, and when it came up in the court room I only simple said Yes, mitout thinking of it

Q. You simply said Yes, what? A. When he asked me if I put it out.

Q. You simply said Yes, in the court room without thinking about it? A. Yes, without thinking about it.

Q. You mean that you just paid no attention, you have no interest in the case? A. No, interest— Of course I got to have interest in it, but really is to get over it, first place, I didn't know what to say, so I said Yes. Just as well I could say No.

Q. When was that, before Foley or in the court? A. In the court room.

Q. Go on, tell us. You want to explain. Go on and explain. A. I guess I am finished with the explanation.

Q. You are finished with the explanation? A. Yes.

Q. What do you mean by explanation? Do you mean that you said No, it didn't make any difference to you or rather you mean you said Yes, and that wasn't the truth? That is the first thing you mean, isn't it? A. Yes.

Q. That is in the court house when you said Yes you wrote that on the board, you really meant No? A. This came—

Q. Is that what you mean? Is that what you mean, Mr. Hauptmann? A. Will you—

Q. In the court house you say you didn't tell the truth because when you said Yes that you wrote this, you didn't mean it? A. I didn't mean it, that is right.

Q. That is right. So you did say in the court Yes you wrote it, in the Bronx County court, but that was not the truth? A. This was not the true.

Q. Not the truth? A. After I was thinking of it, this board, special from the place where they took them, and it is impossible I ever put it on.

Q. Now, you were examined by District Attorney Foley on September the 25th, 1934, you remember that, about a week after you were arrested. A. That is about.

Q. And after you were examined by District Attorney Foley, the hearing in the Bronx, October 17th, 22 days after you made the statement to Mr. Foley, you came into the Bronx County Court House to oppose the efforts of the State of New Jersey to bring you here on trial, so you had some time to think about the board, didn't you? A. I really—I never was thinking about it.

Q. You had a lawyer in court, didn't you, in the Bronx County Court? A. I did, yes.

Q. Yes, sir, and you were represented by a lawyer when this hearing was on? A. Yes.

Q. You were in the courtroom where they were taking your pictures every day, weren't they? A. Yes.

Q. You knew how important it was? A. Well, I don't know exactly how important it was.

Q. You don't know how important it was? A. No.

Q. Your wife was in there saying to you, "Richard, please tell the truth," every day, wasn't she? A. Yes, she was.

Q. And with all of that, with a charge of murder against you by the State of New Jersey and your wife pleading with you to tell the truth, you walked in before a Supreme Court Justice in New York State and you lied, and when you lied you knew you lied, didn't you? A. No, that is not lying, I give this answer mitout thinking anything, I could just as well say no or yes.

Q. Well, it wasn't one question and one answer, Mr. Defendant, was it? A. My physical condition wasn't so well at this time.

Q. At that time? A. No.

Q. October 17th? A. No.

Q. It was just as good as it is now? A. No, sir.

Q. It wasn't? A. No.

Q. Let's see. Did you say anything to the Judge at the time about your physical condition, that you couldn't answer or didn't want to answer? A. I can't remember to make any complaints.

Q. Did you say anything in court at the time that you would like to have the hearing postponed? A. I don't think I did.

Q. Your physical condition was good enough to deny that you were in the State of New Jersey on March 1st, wasn't it? A. That is one thing I am positively sure of.

Q. Sure. Your physical condition was good enough to deny that you murdered the Lindbergh child, wasn't it? A. I never saw the Lindbergh child.

Q. You jumped out of your chair when I asked you about that, didn't you, in the Bronx courthouse? A. In The Bronx courthouse I jumping out of my chair?

Q. Yes. A. I said No.

Q. Your physical condition was good enough for

that? A. That is one thing that is so absurd that you can sleep when you are up against that.

Q. That is one thing you are sure of? A. Yes.

Q. You were never in that Lindbergh house, were you? A. No, sir.

Q. Certainly not? A. Certainly not.

Q. You never went in there and took that child out of that room, did you? A. No.

Q. You never took that chisel into that bedroom, did you? A. I never was.

Q. You never took that ladder up there, did you? A. I even didn't build that ladder.

Q. You didn't even take that ladder out of your attic, did you? A. No, sir.

Q. You didn't collect the $50,000 either? A. No.

Q. You got part of it, didn't you? Who got the rest of it? A. The—

Q. Who got the rest of it? A. I don't know anything about it.

Q. You don't know anything about it but you wrote Condon's name and address on this board, and that is what we are back to now. A. No, positively not.

Q. Positively not? A. Positively not.

Q. Let me read you some of your answers then: "How did you come to put the telephone number on there?" And your answer was, "I can't give you any explanation about the telephone number." Then your next question—I read that to you a minute ago. "Your only explanation for writing Dr. Condon's address on this board and telephone number is that you were probably reading the paper in the closet and you marked it down, is that correct?" And wasn't your answer as follows: "It is possible that a shelf or two shelves in the closet and after a while I put new papers always on the closet and we just got the paper where this case was in, and I followed the

story of course, and I put the address on there." Did you say that to Foley? A. Yes.

Q. All right. A. I say that.

Q. You said that to Foley. It is possible you were reading a paper and you were in the closet and you were interested in the case, so you marked it down on the closet? A. But it is impossible to mark it down in the closet.

Q. And then the next question: "That's why you marked it on the door?" You had something on the door, too, didn't you? Some numbers of some bills, some big bills? A. On the panel.

Q. On the panel? A. Door panel.

Q. You had on the door panel, that same door, some numbers of big bills, didn't you? A. Yes.

Q. What were the size of those bills, $500 and $1,000, weren't they? A. It was a thousand, I guess.

Q. Thousand dollar bills? A. Thousand dollar bills.

Q. How many thousand dollar bills did you have? A. I can't remember now. When I put it on, it was summer time '32.

Q. Yes, sure, summer time '32; after April the 2nd, 1932? A. No; summer time '33; I wish to correct.

Q. Oh, I see. A. I got $2,000 I should put in the stock market and I didn't put it in the stock market, I brought it to the bank, and I kept it home for a few days.

Q. Two one thousand dollar bills? A. Yes.

Q. Tell me, where do you get those one thousand dollar bills? A. That is Mr. Fisch brought it in my house, to put it in the margin.

Q. Oh, Mr. Fisch brought it? A. Yes, sir.

Q. We are going to come to Mr. Fisch in a little while. A. Yes.

Q. Now let's get back to the board again. A. Yes.

Q. The next question—oh, I just asked you about that; that is, the next question was why you marked it on the door and you said, "That is the only explanation I can give."

Q. And then you were asked by Mr. Foley, "Your answers to my questions are made of your own free will: is that correct?" And you answered, "Yes." Isn't that right? That is, you made the answer to question Mr. Foley asked you if you made the answers of your own free will, and you said Yes, isn't that right? A. Yes; I guess I said to everybody, everything yes at this time.

Q. Now, do you remember being asked this, "Is there anything more you want to say about it or add to it," you were asked that, and your answer was this: "No. About them two numbers, I am sure it was five hundred or thousand dollar bills." Do you remember saying that? A. I guess I did say so.

Q. You didn't even know whether it was a $500 or a $1000 bill, isn't that right, it was one or the other? A. Yes, one or another.

Q. You mean to tell me that you sat in The Bronx courtroom, talking to Foley about $500 bills and $1000 bills, and didn't know whether it was five hundreds you had or thousands? A. That is true, I don't know if it was a five—

Q. You didn't know? A. —hundred dollar bill or a thousand dollar bill.

Q. A man that had, the greatest amount of money you ever had in Europe was a hundred dollars, and you couldn't remember in 1932 whether the bills laying around the house were thousand dollar bills or five hundreds? A. This time, '33, I get quite a lot of money to put in the market, put in force, so I really, I couldn't remember if it was 500 or 1,000.

Q. And that is what you told Mr. Foley? A. Yes.

Q. All right. As you remember, then, you were

asked, "When you say those two numbers you don't refer to anything on this board, when you talk about the two numbers you don't mean anything written on this board, but other numbers written on the door," and your answer was, "Yes, on the door." That is true, isn't it? That is, you told Foley that you didn't mean anything on that board, you meant the numbers on the sash or the door? A. On the door pillar?

Q. Yes.

Mr. Peacock: Panel of the door.

Q. On the panel of the door. A. Panel of the door.

Q. And then you were asked, "Is there anything else that you would like to add," and you answered "No," isn't that correct? A. Well, I can't—that is what I say; I can't remember.

Q. All right then, weren't you asked then, "Do you remember the day that you wrote this memorandum on the board," the memorandum, referring to the memorandum on Exhibit S-204, you were asked that question, weren't you: "Do you remember the day that you wrote it?" and your answer was "No." You remember that, don't you? A. That is what I said, I can't remember them questions and the answers.

Q. Then you were asked again, "You remember that you did write it?" And your answer was, "I must write it, the figures, that is my writing." Do you remember saying that to Mr. Foley? A. I guess I said it must be, it looks like my writing.

Q. Do you remember saying that to Mr. Foley? A. No, I can't.

Q. "I must write it, the figures, that is my writing"? A. I guess I said it looks like my writing.

Q. You guess you said it looks like your writing? A. I guess; I can't exactly remember, but I said—

Q. You say you didn't say that, "I must write it, the figures, that is my writing"? A. That is what I said, I can't remember that what I said.

Q. Well, at any rate, you had talked to Foley, all these questions, September, 1932, you knew when you were coming into the courthouse to answer the complaint of the State of New Jersey, you knew you were going to be asked about it, again, didn't you? A. Well, I didn't know if I was going to ask again about it.

Q. What did you think they were going to ask you about, your hunting trip up in Maine? A. No. I really don't know.

Q. You didn't know? A. I know there is a lot of things to put on the particular board.

Q. This is funny to you, isn't it? You are having a lot of— A. No, absolutely not.

Q. You are having a lot of fun with me, aren't you? A. No.

Q. Well, you are doing very well, you are smiling at me every five minutes? A. No.

Q. You think you are a big shot, don't you? A. No. Should I cry?

Q. No, certainly you shouldn't. You think you are bigger than everybody, don't you? A. No, but I know I am innocent.

Q. Yes. You are the man that has the will power, that is what you know, isn't it? A. No.

Q. You wouldn't tell if they murdered you, would you? A. No.

Q. No. Will power is everything with you, isn't it? A. No, it is— I feel innocent and I am innocent and that keeps me the power to stand up.

Q. Lying when you swear to God that you will tell the truth. Telling lies doesn't mean anything. A. Stop that!

Q. Didn't you swear to untruths in the Bronx Court House? A. Stop that!

Q. Didn't you swear to untruths in the court house? Didn't you lie under oath time and time again? Didn't you? A. I did not!

Q. You did not? A. No.

Q. All right, sir. When you were arrested with this Lindbergh ransom money and you had a twenty dollar bill, Lindbergh ransom money, did they ask you where you got it? Did they ask you? A. They did.

Q. Did you lie to them or did you tell them the truth? Did you lie to them or did you tell them the truth? A. I said not the truth.

Q. You lied, didn't you? A. I did, yes.

Q. Yes. Lies, lies, lies, about Lindbergh ransom money, isn't that right? A. Well, you lied to me, too.

Q. Yes, where and when? A. Right in this court room here.

Q. We will let the jury decide about that. In this court room. Did I ever ask you a question outside of this court room? Did I ever come into that jail to ask you a thing? A. No.

Q. Did I ever ask you to sign a paper? A. No.

Q. Did I ever ask you to make a statement? A. No.

Q. I asked you if you wanted a cigar or cigarettes when I brought you here from the Bronx, didn't I? A. I don't remember.

Q. I asked you if you would like to stay in the corridor or if you would like to go up to the cell, I asked you that, didn't I? Isn't that right? A. I can't remember those things.

Q. You can't remember that. Now let's get back to the Lindbergh ransom money. You were arrested by the police? A. Yes.

Q. You see you are not smiling any more, are you? A. Smiling?

Q. It has gotten a little more serious, hasn't it? A. I guess it isn't any place to smile here.

Q. "I am a carpenter." A. I am.

Q. That was funny, wasn't it? A. No, sir, there is nothing funny about it.

Q. There is nothing funny about it? You had a good laugh, didn't you? Did you plan that in the jail there, did somebody tell you to give that answer when I asked you about the ladder, to stand in front of the jury and say "I am a carpenter"? A. No, sir.

Q. You thought that out yourself? A. No, I didn't think a thing about it.

Q. Let me ask you something: You have got a peculiar notion about will power, haven't you?

Mr. Pope: Well, I think this has gone just about far enough.

Mr. Wilentz: I will withdraw the question. If it has, may we have a recess, if your Honor please?

Mr. Pope: I think we ought to come back into a court room and see if we can't get down—

Mr. Wilentz: Now, I object to that. I think it is a reflection on the Court.

The Court: What do you mean by that, Mr. Pope?

Mr. Pope: Well, I mean this patent abuse of the witness. It seems to me it is about time we protested against it. It has been going on for quite a while.

The Court: Whenever you have any occasion to protest, you make your protest to the

Court while the thing is going on, and the Court will deal with it; it always has and will continue to do so.

We will now take a recess for five minutes.

(At 3:31 p. m. a short recess was taken.)

(After a short recess the jurors were polled and all answered present.)

(The defendant resumed the witness stand.)

By Mr. Wilentz

The Court: You may proceed, Mr. Attorney General, when you are ready.

Q. Now, Mr. Defendant, when you were up in The Bronx County Courthouse, and you say you were a little excited—you said you were a little excited when you were with Mr. Foley—were you excited because that was the first time you were in court? Hadn't you had experience? A. No.

Q. You had had experience in court, hadn't you? A. No, I did not. That is from the treatment I get in New York from police.

Q. But you knew what it was to be on the stand and to tell the truth or not to tell the truth, didn't you? A. I know it.

Q. Sure. You had 17 days in jail there before they called you to the hearing and you had talked to your wife about the whole case, and you talked to your lawyer and to investigators about it before you took the stand? A. I talked very little to my wife, mostly about the child we was talking.

Q. Who told you to change your story today? A. Nobody told me anything about it.

Q. Who told you in New Jersey since you have been in jail to change your story about this board? A. Nobody.

Q. No investigators? A. I guess I didn't even see investigators.

Q. Who did you talk to about this board and about Dr. Condon? A. Is nobody.

Q. Nobody at all? A. No.

Q. You remember these chisels? A. Yes.

Q. You had them in a cigar box, didn't you? A. No.

Q. You didn't have them in a cigar box? A. Laying on the shelf.

Q. Where? A. South wall of the garage inside.

Q. Didn't you have those chisels in the closet of your home? A. Closet?

Q. Yes, in the closet of your home in a cigar box? A. Oh, I guess there was one chisel laying over there. You mean in the apartment?

Q. Yes, in your apartment. A. Yes, I guess one chisel was laying there.

Mr. Wilentz: Oh, this is in evidence already?

Mr. Peacock: Yes.

Q. Now, will you just take a look at this? Do you recognize this as being part of your attic (referring to Exhibit S-215)? A. Yes.

Q. Well, you have been up to your attic, haven't you? A. Yes.

Q. And when you get up to your attic you can only get there through your linen closet, isn't that right? A. It used to be a linen closet, but we never use it for linen.

Q. What did you use it for? A. To put in the—

well, most the wash, my wife put the washing in there.

Q. The closet was your closet. A. Yes.

Q. Yours and your wife's? A. Yes.

Q. Mr. Reilly was asking you the other day about the families that lived in the house and you said there were three families, I think. A. Yes.

Q. You meant your family was one family. A. Yes.

Q. And your family is the only family occupying the upstairs, second floor? A. Yes.

Q. The other families were downstairs? A. Downstairs.

Q. And they had nothing to do with that closet. A. Nothing.

Q. And they had nothing to do with the attic. A. Nothing.

Q. You have been up to that attic, haven't you? A. Yes.

Q. So that you were familiar with the attic, you knew about the attic. A. I knew about our attic.

Q. And, of course, being a carpenter, you looked at the floor where the joists had no boards on it on either side and in the middle they had these boards across. A. I noticed that there.

Q. Now, when you looked at the attic, that board was right across, wasn't it (indicating)? A. I can't remember that.

Q. You can't remember whether or not this board here was right across? A. No.

Q. You can't remember? A. I know when I moved in I put away a whole lot of stuff I couldn't use; I put it in the attic and I never bothered with it.

Q. You never bothered with it? A. No.

Q. And you don't remember whether or not there was a piece of board missing there? A. No, I can't.

Q. Well, do you know who left the sawdust up there, when it was sawed off? A. No.

Q. Do you recognize this as being a part of the floor, the part that is shown there, S-226? A. No, I can't.

Q. You can't recognize it. What kind of wood is it? A. This is what we call roofing boards.

Q. Roofing boards? Well, what kind of wood? A. It is North Carolina pine.

Q. Well, they call it all North Carolina pine, don't they? A. No, that's pine.

Q. Well, it is North Carolina pine, whether it comes from South Carolina, or North Carolina; they call it the same thing, don't they? A. NC pine.

Q. You wouldn't want me, a lawyer, to be telling you about pine, would you? It is NC pine? A. NC pine.

Q. Yes. And it is flooring, isn't it? A. Roofing.

Q. Roofing. You don't know whether this comes from your attic or not? A. I don't know.

Q. And you don't know whether that was all the way across or not? A. I never noticed that.

Q. You never noticed that? A. If that piece is missing or not.

Q. I see. Do you know the dimensions of that closet? A. Well, about 14 inch deep, a little bit more,—16.

Q. In order to get up to the attic— A. Oh, this one.

Q. When you were using it as a closet, you first had to remove the shelves, didn't you? A. It wasn't necessary.

Q. You didn't have any shelves there? A. No, I mean to go to the attic it wasn't necessary to remove the shelves.

Q. How did you get up there then? A. There was still room enough to get up.

Q. How would you go up with the shelves in there? A. You use the cleats from the shelves.

Q. You would have to climb up on the shelves? A. Yes.

Q. Is that it? A. Yes.

Q. Well, of course, Mrs. Hauptmann couldn't get up there, could she? A. I guess she was up there one time.

Q. You think she was. Did she use a chair? A. Well, me put a chair, the corner from the chair, inside of the closet.

Q. Yes. You had to put something in in order to get up, except, of course, an athlete like you. You could get up there, you could climb that easily, couldn't you? A. Well, I say not easily. It was quite a job to get up there.

Q. It was quite a job to get up there, wasn't it? A. Yes.

Q. That is the place you made the ladder, wasn't it, up in the attic? That is where you did your work, wasn't it? A. No, I got a garage.

Q. You got a garage where you built the ladder, is that what you mean? A. I never built the ladder.

Q. You never built one in your life, did you? A. No, sir.

Q. How many years did you say you were a carpenter? A. Nine or ten years.

Q. Of course not nine or ten years at the job, you don't mean that. A. No, I mean all together.

Q. All together? A. Yes.

Q. Does that include the time that you have been a stock market operator? A. Well, I have been a carpenter one year in Germany—

Q. Let's get back to the time you were arrested and they found this twenty dollar bill on you, the ransom money bill, and the police asked you where you got it. Isn't that right? A. Yes.

Q. And you said to the police, "This twenty dollar bill, yes, I had three hundred dollars worth. I saved it, got it from my friends and got it from the

banks and this is the last of the three hundred dollars of gold bills." Isn't that what you told them? A. Yes, I told them that.

Q. And when you told the police that you knew at the very time that you told them that you were not telling the truth, isn't that right? A. That is right.

Q. You see now we are getting along fine. A little bit later they asked you whether you had any more money and you said No, is that right? A. That is right.

Q. But that wasn't the truth, either, was it? A. It was not.

Q. No. Well, they finally find a lot of gold in the house, didn't they? A. I told them about it later.

Q. Later you told them about it. A. Before they found it.

Q. You told that to General O'Ryan, you say? A. Yes.

Q. You say you told them before they found it. A. Yes.

Q. But up to the time you told them about that, —they brought the money there, they told you they found it, you told them where to find it and they told you they got it, is that right? A. I told them first, fourteen thousand dollars, south wall of the garage.

Q. They found that money, is that right? A. Yes, sir.

Q. They came to you and said, "Mr. Hauptmann, we found the money," and they said to you, "is there any more money, ransom money?" Is that right? A. Yes.

Q. What did you say? You said No. A. I said No.

Q. And when you said No, you knew you were not telling the truth, isn't that right? A. Yes.

Q. So when they found the first bill, you didn't tell them the truth, and you knew you weren't tell-

ing them the truth, and afterwards when they found the other money, you told them again you had no more money, and when you told them that you knew then what you were telling to them, you were not telling the truth: that is right, isn't it? A. That is right.

Q. So they brought some more money to you and they said, "What about this" and Mr. Foley said to you, did he not, "This is Lindbergh money?" And you said, "Yes," isn't that right? A. I don't know about that, sir.

Q. Well, let me refresh your recollection, not as to what Mr. Foley said but as to what happened in The Bronx Supreme Court.

Mr. Wilentz: What page is it on?

Q. You don't mind waiting just a minute, please. A. No objection.

Mr. Wilentz: Page 112, gentlemen.

Q. The next question—this is the next question that Mr. Foley is supposed to have asked you, and I am asking you in the courtroom in The Bronx, the question, "Do you remember that you wrote that on the board? A. Yes." Do you remember that? That board there, that is that board there. A. The trimming?

Q. The trimming, yes.

Q. This is in the Bronx and I am about to ask you about the money, but before I ask you about the money, I ask you again whether or not Foley asked you that. The next question: "Do you remember that you wrote that on the board?" Referring to Exhibit S-204. "A. Yes." "Do you remember that?" Your answer: "Yes." Do you remember that? A. (No answer.)

Q. That is the "Yes" that you say now isn't so. A. I can't remember exactly the question.

Q. You can't remember. Well then, we will get down to the money. The next question. Mr. Foley asked you the question and I am repeating it, in the court: "What about the money? Is it Lindbergh money?" And your answer to Mr. Foley, I am asking you whether it is yes, and I say do you, do you remember that; now before you answer, the Judge says to you, "Do you understand that?" and you answer "Yes," and the Judge says to you "What is your answer?" and your answer was, "Yes." Isn't that right? A. I can't remember, but I guess it was like that.

Q. So that when they brought the other money to you, after you had told untruths twice, and Foley says to you, "What about the money, is it Lindbergh money," you answered: "Yes." Isn't that right? A. Of course that came from the same box.

Q. Yes. A. If the first money was Lindbergh money, it must be the second one, too.

Q. This best friend of yours, Mr. Fisch, when he left that box with you, he didn't tell you it was money, did he? A. No.

Q. Why didn't you take that money? You put it in the closet because you didn't want to wake up the baby and you didn't want to interfere with your wife, isn't that right? A. That is right.

Q. Well, finally when you found it was money, why didn't you put it in that trunk, the dry place, the safe place where you kept your money? A. It was wet already.

Q. Yes. But the trunk was dry? A. But I have to dry it first. I couldn't dry it in the trunk.

Q. By the way, it was quite wet in that closet, wasn't it? A. Yes.

Q. Three-quarters or a half inch of water? A. That is what I say, sometimes after Winter.

Q. Never mind about the some time after Winter. About this money in the box that day, when you found it there. A. Wet.

Q. How much water was there? A. In the money?

Q. Any place in the closet. A. The closet wasn't very wet at all.

Q. The closet wasn't wet? A. Not much.

Q. What was wet? A. That is the money.

Q. Well, how wet was it? A. You could squeeze the water out.

Q. Didn't you tell us before, under Mr. Reilly's examination, I think you showed us water about that —what did you mean by that? A. Three-quarter of inch.

Q. What did you mean by that? I must have misunderstood you. A. Sometimes there was a big raining, coming from one side, I don't know which side it was, south side.

Q. One of the sides. What is the difference? A. And we got plenty of rain in the closet.

Q. That happened every time there was a big rain? A. Not every time.

Q. Well, sometimes? A. Sometimes, yes.

Q. How many times would you say? A. Well, it depends on the weather.

Q. Yes. Well, how many times would you say from the time you put the money in there, the box in there, until you took it out—you put it in when, November or December, 1933? A. Can't set any time.

Q. You can't? A. I don't know how many times, but I know I usually—

Q. Three times, four times? Give us your best judgment. A. I say two, three times.

Q. Two or three times. Well, when it rained through there two or three times, water about a half inch or three-quarters of an inch, didn't you think

then about your best friend telling you to keep that in a dry place, and take it out then? What were you waiting for? A. No, I forgot all about this box.

Q. You forgot all about it? A. Yes, I guess when he put in the box.

Q. What did your wife keep in this closet, brooms? A. It was broom.

Q. Soap? A. Soap, yes.

Q. Polish? A. Polish, yes.

Q. What else? Now you tell me some of the things; I have told you some. A. Shoe polish.

Mr. Wilentz: Where is this picture? I lose it every two minutes, if your Honor please.

A. On the upper shelf—

Q. What? A. On the upper shelf, was always standing a tin box mit coupons from soap.

Q. Coupons? A. Yes.

Q. Soap coupons? A. Yes.

Q. Bottles of various liquids that you used? A. Yes.

Q. And the mop? A. The mop was on the left.

Q. Toilet paper? A. No, not toilet paper.

Q. Well, take a look at that, that must have been placed in there afterwards, is that it, down at the bottom there? A. That is placed in after that.

Q. All right now, toilet paper; there was no paper at all, was there? A. No.

Q. No, couldn't be, because it would have gotten wet, wouldn't it? That is, you wouldn't keep paper in there because it would get wet, is that right? A. No, the paper we have usually got another place for it.

Q. Another place for it? A. Yes.

Q. Your wife had her aprons up on the inside of the door, didn't she, that is where she used to hang your aprons. A. Yes, inside the door.

Q. Just like the picture shows. A. Yes.

Q. That is what the nail is for. A. Yes, that is right.

Q. And it wasn't a very high closet, was it? A. My wife could hardly reach the shelf.

Q. I know about your wife reaching it. What I want to know from you as a carpenter is how high that closet was. A. It was—wait a minute.

Q. Your best judgment, if you are mistaken about it— A. I want to give it to you as correct as I can.

Q. Maybe I can help you with it. It is about seven feet and a half. A. Between seven and eight.

Q. Yes. That is all right. A. Between seven and eight.

Q. Now between seven and eight feet. How tall are you, Mr. Defendant? A. Five nine and a half.

Q. Five nine and a half? A. Yes.

Q. What size shoe do you wear? A. Nine; nine and a half.

Q. When did you put the half on? A. It depends where I buy the shoes.

Q. Sometimes it is nine and sometimes it is nine and a half? A. Yes.

Q. And you are about five foot nine? A. A little bit over.

Q. Is that right? A. Nine and a half, that is right.

Q. Show us about where you think seven foot would be, up about here, would that be about the height of the closet? A. That's too high.

Q. Too high. A little lower; about there? A. That's too high, too.

Q. About here? A. That's too high, too.

Q. Oh, you don't mean that. That must be— A. I can figure it better this way (stepping to wall at the right of the jury).

Q. Don't get too close to that door. Right about there? A. In the middle.

Q. All right. Now let's see. So that your idea of seven feet on this wall would be between the second and third from the top, those boards? A. Yes.

Q. Now of course if I stood here and that was the closet, I could easily, if the door was open I could easily see that shelf, couldn't I? Just like you can see it on this picture as you look away from it? A. Yes. This door was usually closed.

Q. Oh, sure, but I mean if the door was open and I was standing five feet away from it, I could see the whole top shelf, couldn't I? A. Yes, you could see it partly, not quite.

Q. Well, if I stood a little bit further away I could see nearly all of it, couldn't I? A. No, you couldn't.

Q. Well, you could see the top shelf and you could see what was on it, just as you can see the picture, couldn't you? A. Yes, you can see part of it.

Q. Yes, part of it. And of course, if your wife—that was your broom closet in the kitchen, wasn't it? A. Broom closet in the kitchen.

Q. Your wife used to go there every day? A. Yes.

Q. She never found that box, did she? A. Well, all her stuff was usually on the first and second shelf.

Q. Just answer the question, please. She never found or saw that box so far as you know, did she? A. No.

Q. And you never told her about it, did you? A. No.

Q. Well anyway, one day you took that broom and what? You were going to sweep something up, weren't you? A. Yes.

Q. And you hit the box somehow? A. Yes.

Q. And that showed it was money? A. Yes.

Q. I think you said that you weren't glad, you weren't sad, but you were excited? A. Yes.

Q. Well, you were really glad, weren't you, when you saw all this money? A. No, I can't say I was glad. I was excited. I didn't know what to think of it at all, first.

Q. You didn't want to go out and celebrate about finding all this gold? A. Oh, no.

Q. You have never been married in your life before, had you? A. No.

Q. No. You had only had one wife all during the time, hadn't you? A. Yes.

Q. And as I said before, you and your wife had been sort of partners, hadn't you? A. Yes.

Q. You didn't declare her in on this partnership, did you? A. No.

Q. Why not, Mr. Hauptmann? A. In the finances, in my whole financial transactions, even in the stock market, I guess my wife didn't know yet what is going on in the stock market.

Q. Certainly not. You told her you were making money, didn't you? A. I guess—

Q. We will stop here. You told her you were making money, didn't you? A. I did.

Q. And you weren't telling her the truth. A. I told her the truth, I made money.

Q. You actually lost money in the market, didn't you? A. No, I made money.

Q. In the end did you make money? A. Yes, I made it.

Q. Well, up to April 2nd, you lost about three thousand dollars, isn't that right? A. Yes.

Q. And from April 2nd to 1934, when you were arrested, you lost about five or six thousand, didn't you? A. No, No.

Q. What was the situation? A. My account was standing actual money $9,500.

Q. Well, what do you mean, it was standing

$9,500? A. Dis date, 19— which date you prefer? Q. September, 1934. A. September, 1934?

Q. When you were arrested? A. Yes, I— up to this time my gain was around $2,000.

Q. Up to that time your gain was— A. Yes.

Q.—$2,000? A. That is when I figured this time the stock was worth about around $6,000.

Q. Yes. A. But, mitout figuring the stock market from Carleton-Mott, I— I forgot it; I only counted from April, from '32. I made still around three to four thousand dollars.

Q. You made three to four? A. Yes.

Q. Did you hear Mr. Frank, of the Intelligence Unit of the United States Government, testify about your figures? A. Yes, I heard it.

Q. Did you hear him say that that account lost $5,800 from April 2nd, 1932, till the date of your arrest? A. Yes, which account?

Q. The brokerage account in your name. A. In the brokerage account, yes.

Q. In the name of your wife? A. Yes.

Q. That account did lose, didn't it? A. That account did lose, yes.

Q. But you mean the loss was Fisch's, not yours, is that what you mean? A. Some of them was Fisch, some of them was mine.

Q. I see. A. But—

Q. Well, the loss altogether was $5,800, Mr. Hauptmann. Now which part was Fisch's and which part was yours? A. Well, I can't say it mitout my books or anything else.

Q. Well, you went over them over the week-end. You sat on this witness stand for pretty nearly three hours answering question for Mr. Reilly from your figures about the brokerage accounts? A. Ja.

Q. You lost $1,240.65 in 1933 and $4,263.24 in 1934, do you remember that? A. Didn't figure out I don't know 1934.

Q. Well, take the whole account before 1932, from 1929, and your whole loss, including Carlton & Mott was $9,132, yours and Fisch's together. How much of it was Fisch's and how much was yours? A. Fisch stepped in the market 1932.

Q. Yes. Well, how much? A. And he lost in the market I figured out it was around $15,000.

Q. $15,000? A. $15,000.

Q. $15,000. You know that is not the truth. A. I know it is the truth.

Q. And you know we can prove it is not the truth, don't you? A. It is the true.

Q. You know that you have books with those stock accounts, don't you? A. Yes.

Q. And you know the books won't show those figures. You know that, don't you? A. My books shows only partly.

Q. Oh, only partly? A. Yes.

Q. Who were you hiding that from in your books? A. When I bought for Fisch I give in the slip when I bought it, marked the slip "Fisch"; when I sold his stock always at Fisch request.

Q. Yes. A. I got a paying and selling.

Q. Yes. A. Only there is a difference.

Q. But you kept an account with every stock that you bought, didn't you? A. Every stock what I bought, yes.

Q. And you kept an account of the stocks you bought for Fisch? A. No, sir.

Q. Well, you have them in your book, haven't you? A. I know. I kept one time account of Fisch. I told him to give me $2,000 and I will keep care of that.

Q. Did Fisch own an automobile? A. No.

Q. Did Fisch drive an automobile? A. I don't know.

Q. Well, you never saw him drive one? A. I never saw him.

Q. You know he didn't own an automobile, you know that, don't you? A. Yes.

Q. You loaned Fisch $5,500, didn't you, in cash? A. No.

Q. Now, Hauptmann, you tell the truth. Didn't you loan him $5,500 in cash? No.

Q. Out of your private bank account? A. No.

Q. Didn't you write to Fisch's family, after Fisch died, after he died, didn't you write them, "I gave him $5,500 out of my private bank account"? A. Yes, to make it clearly I wrote him this way—

Q. You wrote him that, didn't you? A. Yes.

Q. Wait a minute, now. My God, don't you tell anybody the truth?

Mr. Fisher: That is objected to, your Honor.

The Court: Yes, that is objectionable. I sustain the objection.

Q. Did you write to the Fisch family after your friend died and explain your accounts with Fisch? Didn't you write to them that you loaned him $5,500 in cash out of your private bank account? A. Yes, I did.

Q. Didn't you tell the police that when you were arrested? A. I don't know if I did.

Q. Well, you wouldn't say you didn't, will you? A. Before you go farther, may I explain.

Q. Yes, sir. A. The 5,500—

Q. Yes, sir. A. In November, '33—

Q. Yes. A. When I make clear what I said—

Q. Go ahead. A. Because nobody knowed how we was standing, profit from furs, and there was some from the stock account. In other words, I got to get $5,500 for Mr. Fisch.

Q. He owed you $5,500? A. Yes.

Q. Yes. A. But he said he hasn't got any money, he has got all invested in furs.

Q. Yes. A. And I said, "All right, leave it this way, I leave them $5,500 in your account."

Q. Yes. A. I make it short in explaining, I go to his brother, I give him $5,500.

Q. Now Hauptmann, he owed you $5,500, didn't he? A. Yes.

Q. And two thousand more you gave him in November before he sailed to Germany? A. Yes.

Q. Seventy-five hundred? A. Yes.

Q. When you knew that he was dead, your friend, your partner, and you got a letter from his brother or from his family, telling you about it— A. Yes.

Q. You answered that letter, didn't you? A. I did.

Q. You told them how sorry you were? A. I did.

Q. You told them he was your best friend? A. I did.

Q. And you told them all about your account? A. Yes.

Q. And you told them that you gave him $5,500, didn't you? A. Yes, I explain it this way.

Q. Yes, sir. But you told them in the letter that you got, $5,500 that you gave to him came from your private bank account, isn't that the fact? A. That's the fact.

Q. You knew it wasn't the truth? A. That's the truth.

Q. Did you get it out of your private bank account? A. This $5,000—

Q. Did you get it out of your private bank account, please? You can explain it later. Did you get it out of your private bank account? A. I didn't have any private bank account.

Q. Then you didn't get it out of any private bank account, did you? A. No.

Q. Then you didn't tell the truth in the letter, did you? A. That is the truth.

Q. Well, where did you get it then? A. The $5,000 is still $5,000, if I take it from the bank or if he owes me.

Q. Why did you put in the letter then, "Private bank account"? A. To make it short, not to make a big explanation about $5,500, I put it in these words.

Q. Now, let's see about this explanation. You wrote him a long letter because you wanted to get your money back, didn't you? A. Yes, I wanted them $5,500 and $2,000.

Q. Yes. You wanted to get your money back and you wanted to find out whether Fisch had any furs some place. He left some furs with you, didn't he? A. Four hundred skins.

Q. Four hundred skins. And you wanted to find out if he had furs some other place? A. Yes.

Q. You wanted to be the administrator; you asked his brother to trust you, just like Isidor trusted you? A. I did.

Q. Sure. You were going to take care of him? A. I made this suggestion to take—

Q. You told him not to trust the lawyer; you told him that, didn't you? A. I told him that, yes. There wouldn't be much left.

Q. Because there wouldn't be much left. That is right. And all the time you were trying to get him to trust you, to make you the administrator; all the time you were writing him that you gave him $5,500 in cash from your private bank account, and that wasn't the truth at all, was it? A. You are all wrong.

Q. All right. You tell me where we are wrong

then. A. My strongest suggestion was to Mr. Fisch—

Q. Fisch— yes. A. —I mean his partner—

Q. Yes. A. —to come over here hisself and settle the whole affair.

Q. Yes, but if he didn't come, to make you the administrator? A. To make me the administrator or take a lawyer.

Q. And that was— take a lawyer? A. Yes.

Q. You never suggested that, you told them not to take a lawyer, didn't you? A. I suggested it, but I said it wouldn't be advisable to take one.

Q. You suggested it? A. Yes.

Q. It is a sort of backhanded invitation— A. I don't know about that.

Q. You suggested it, but you suggested not to do it? A. Yes, that is right.

Q. You told them not to take a lawyer because there wouldn't be much left? A. Yes.

Q. At any rate, in that letter, there couldn't be any mistake, because you wrote it in German, didn't you? The letter was written in German? A. No, I don't think there was any mistake.

Q. Certainly not, and if you put in there "5,500 from my private bank account," you mean $5,500 from your private bank account, don't you? A. That is only to— I figured out probably if his brother knows Fisch lost so much in the stock market—

Q. You didn't want to tell his brother? A. I wouldn't tell him.

Q. That is it, so you put that in there because you didn't want his brother to know about it. A. Yes.

Q. Why didn't you say so in the first place? A. You didn't give me much chance to explain it.

Q. Oh, I thought I gave you a chance to explain it for five minutes, at least, that is what it seemed to me. Well, at any rate, the rest, your books are

right, aren't they, if you got 5,500 in your books. that must be right, you weren't trying to fool Fisch's brother through your books? A. Oh, no; that is perfectly all right.

Q. That is right, isn't it? A. That is right.

Q. Now, when you wrote to Fisch's brother you told him that you and Fisch had a little business together, didn't you? A. Yes.

Q. And you told him when you started it, you told him November 1st, 1933, didn't you? A. Ja, that is when we settled.

Q. When you settled? A. Yes.

Q. And you told him that you put up $1200 in stocks? A. Yes.

Q. And that he put up $2100 in furs. A. Yes, I guess $20,000.

Q. About $21,000? A. Yes.

Q. If it is— I am not going to hold you to a thousand or two. At that time you were dealing in thousands, so if we are making a little mistake don't you take advantage of my mistakes and I won't of yours. Somewhere around 12,000 stocks and twenty or twenty-one thousand dollars in furs. A. Yes.

Q. In order to make it even, you put in your account, you gave Fisch 5,500 in cash, so that made your investment 17,500, isn't that right? A. No, that is not right.

Q. That is what you said, wasn't it? A. No.

Q. In the letter? A. That is not right.

Q. That is what you have got in the book, your book, isn't it? A. Maybe I put it in the letter this way to make it shorter, but Fisch, he put—

Mr. Wilentz: Where is the book?

A. —Mr. Fisch bought too much furs.

Q. Yes, you told us about that. A. Over 21,000.

Q. What I want to know is whether or not you

put those figures in your book and in the letter to the Fisch family, $17,500 as your share on account of the $12,000 stocks and on account of the $5,000 cash you gave Fisch. Did you put $12,000 in stocks into that account? A. No.

Q. You didn't? A. No. I never did have $12,000.

Q. Well, why did you put it in the book then, your book? A. Yeah, that was my, what I made in the market.

Q. Is this your handwriting? A. It is.

Q. Especially the bottom part; take a look at it, because that is where this business is, that bottom part. Is that your handwriting? A. Let me see.

Q. Yes, sir; you may see it. Take a look at it and if policemen wrote it in there, say so. A. No, that is my handwriting.

Q. Well, all right. Now— A. I put there—

Q. We will get to that. I am going to let you explain everything if you will let me do the examining. Now this is in English, isn't it? A. In English.

Q. But some of the little words, they were in German, weren't they? A. Yes, mixed up.

Q. So in the last eight years you learned something about the English language, but there were some things you didn't learn, is that it? A. Yes.

Q. All right. Now "im 21/10/1933", that is your German way of saying October 21, 1933, isn't it? A. Yes.

Q. That means October the 21st, 1933? A. Yes.

Q. Then after that you say you put in stock, $12,000, in furs $5,500? A. Yes.

Q. All right, sir. Now you see that, don't you. A. Yeah.

Q. That is the $12,000 plus the $5,500— that makes up your share of $17,500, isn't that right? A. That is correct.

Q. All right, sir. This is your book by the way,

isn't it? A. Yes.

Q. Referring to page 102 of a book which will be marked, please, for identification, what number?

The Reporter: S-267.

(The book was marked State's Exhibit S-267 for identification.)

Q. This is your book, isn't it? A. Yes, you—now may I explain?

Q. Do you want to explain this? A. Yes.

Q. Yes, sir; go ahead and explain it. A. We made a clean table. We didn't know, then we were standing, my account, all the money, I got in the market, I made in the market was $12,000, and there was $5,500 coming to me from Mr. Fisch from fur profit and there was some in the market he lost. I—

Q. $5,500 fur profit? A. I don't know how much it was, three thousand something fur profit.

Q. You know after you get off the stand we can't change this testimony. Was it $3,000 or $5,500 in fur profit? Just think it over now. I don't want you to make any mistake about that. I want you to tell us about your records. A. I can't exactly say if it was three thousand a couple of hundred, or $4,000.

Q. Tell me what the $5,500 represents. A. It represents some fur profit—

Q. Yes. A. —and $12,000 Mr. Fisch was keeping hundred shares— no, thousand shares, Eitingen-Schild's.

Q. He has it E-i-t-i-n-g S-c-h-i-l-d. A. Said he wanted this private.

Q. Let's get back to the $5,500. Don't take me away from it. What does that $5,500 represent? A. Partly fur profit and probably what is coming from the stock market.

Q. But that is money that Fisch owes you? A. Yes.

Q. And that you added to the $12,000 in stocks in order to make up your $17,500; is that right? A. That is correct.

Q. So that your investment was 17,500. A. Yes.

Q. 12,000 stocks, $5,500 that you had coming to you? A. Yes.

Q. Fisch had furs up, $21,000? A. Yes.

Q. All right. That is the partnership. A. Yes.

Q. Fisch with furs, you with stocks, and 5,500. A. Yes.

Q. Now you are saying Yes. A. Wait a minute.

Q. Do you understand what you are talking about? A. In stock— that means only 9,500.

Q. Well, 9,500, all right— not 12,000 stock? A. No.

Q. 9,500? A. 9,500.

Q. But you understand what you are talking about now, don't you? A. Oh, yes.

Q. I don't want to take advantage of you. A. No, I understand.

Q. I think you did say before— No, I will withdraw that. Instead of the 12,000 you mean you only had 9,500 in stock? A. 9,500.

Q. Why did you write the Fisch family in 1934, May, June, July— you wrote them that you put up 1200 in stock. A. Maybe I forgot it.

Q. Well, you really did have 12,000 in stock, didn't you? A. I wrote Mr. Fisch a letter about Eitingdon-Schild—I sold it for him. I don't know if he still got the letter yet or not.

Q. Let's forget the Eitingdon-Schild. Your books show that you put up $12,000 in addition to 5,500 as your share of this partnership; isn't that right? A. Yes.

Q. And that was in 1923 you put that up. Now in 1934, after Fisch died, you wrote to Fisch's fam-

ily that you put up $12,000 in stock and $5,500 in cash; isn't that right? A. The $12,000—

Q. Now, please, won't you answer the question? A. Was standing, was standing in stock.

Q. Won't you please answer the question? Isn't that what you wrote to the Fisch family? A. Yes, that is right.

Q. Was it the truth? A. Yes.

Q. And does the book show the truth? A. Yes.

Q. So that Fisch put no money up; he put furs up? A. He put—

Q. Isn't that right? A. Yes. There is only one thing on those $12,000, only $2,500 belong to Fisch.

Q. Now, as a matter of fact, so there is no mistake about it, early in the game, when you and Fisch first started, you and Fisch did put up a few thousand for stock, didn't he, $2,000, didn't he? A. Well, the first, I don't know; it was only I guess around $700, $800.

Mr. Wilentz: Will you mark this book for identification.

The Reporter: State Exhibit S-267 for identification.

Mr. Wilentz: What number is it?

The Reporter: S-267 for identification.

Q. The book is your book, isn't it? A. It is.

Q. You were quite a bookkeeper, weren't you? A. I don't think so.

Q. You were very careful, I mean about your moneys and about your stocks and about your furs? A. Well, I have to keep kind of a record.

Q. Yes. So that in this partnership you did put

up $12,000 in stock and $5,500 in— A. Not extra money.

Q. In something else, because that it what you just said is the truth. Well, you put up $17,500 worth of equities of some kind, didn't you? A. That is the most money I made in the market.

Q. Well, yes; all right, I don't care where you made it, but November 1st, 1933, you put up $17,500 somehow, whether it is profits or what it was? A. Yes.

Q. $17,500? A. Yes.

Q. $17,500 and you didn't take a dollar of that from that money that Fisch left in the garage for you in the box? A. No, sir.

Q. November 1st, 1933, you had $17,500 worth of assets there that you put into this partnership? A. Yes.

Q. You see, I am asking you the same question? A. Yes. But later on I find out it isn't true.

Q. Wait a minute. Now, in addition— what part of it wasn't true? When did you find it out? A. When, after Fisch—

Q. Died? A. —Fisch died.

Q. Well, he— A. Then I started investigating.

Q. Well, Fisch died in November, 1933, didn't he? Oh, no— he died in March or April, 1934? A. Yes.

Q. And then you found out that that wasn't true, that the furs weren't worth as much money, you mean? A. Yes.

Q. But the 12,000, your investment, the part you put up, your assets, you didn't fake anybody, you actually put up 17,500, did you? A. No.

Q. You put 12,000 dollars' worth of stocks you say you made it in profits or something like that. A. The 5,500, I never saw it, that is only a matter of bookkeeping.

Q. So when you say it is only a matter of bookkeeping, you weren't telling the truth when you wrote to Fisch's family in June or July, 1934, a month or two before you were arrested? A. That is perfectly true.

Q. Perfectly true? A. Yes.

Q. When you found out that there was Fisch's money, $14,000 in gold, did you write to Fisch's family and tell them about it? A. Well, it was a short time before I got arrested when I found it.

Q. You found it when? A. Middle of August.

Q. Middle of August? A. Yes.

Q. And you were arrested on the 19th of September? A. Yes.

Q. You were spending the money already, weren't you? A. Yes. I guess I am entitled to it.

Q. We will get to that in a minute. A. Yes.

Q. You were spending some of it, weren't you? A. Yes.

Q. You had from August 15th until about September 19th that you had this money? A. Yes.

Q. Did you write to the family of your best friend and say "I found this money?" A. No, I did not.

Q. You wrote them a couple of months before that all you had was a couple of trunks worth nothing, didn't you? A. Yes.

Q. You wouldn't tell them about the money when you found some, would you? A. I knew Mr. Fisch was coming over anyway.

Q. You wouldn't tell them that, would you? A. I would.

Q. You wanted to cheat your best friend in death, didn't you? A. No, sir.

Q. You cheated his family, didn't you? A. No.

Q. You never sent them a dollar, did you? A. No, I did not.

Q. No.

Q. Don't you know that you have got in your

books how much money you got from Fisch in all your business transactions? A. From Fisch?

Q. Yes. You know you kept a record of it? A. Yes. It is close to $16,000.

Q. You know very well that you have got in your handwriting that you only got a couple of thousand dollars from him You know that, don't you? A. I got $16,000. That's what we put in the stock market.

Q. $16,000. Can you show us a paper, can you show us a writing, can you show us anything except what you say, that Fisch ever gave you 16,000 cents? A. No. I can't.

Q. Fisch had a bank account, didn't he? A. Yes, he did.

Q. Fisch had a safety deposit box, didn't he? A. Yes.

Q. Did you ever get a check from Fisch? A. No.

Q. Certainly not. Why didn't you say to him, "Mr. Fisch, this a funny thing. You are a business man, dealing in furs. You are giving me thousands of dollars in cash. Why don't you give me a check?" You were a business man then. Why didn't you ask him? A. Well, the same thing, when he was asking for money, especially the last time, the $2,000 he said he don't want any check, he want it in cash. I got a check and cashed it then.

Q. What interest did Fisch have in your stocks? A. Besides them thousand Eitingon-Schilds that he was the owner of it—

Q. Well, I mean—A. Only he was interested in profit and in loss.

Q. Fifty-fifty? A. Fifty-fifty in profit or loss.

Q. Fifty-fifty. A. Yes.

Q. Well, as a matter of fact, he only had a 20 per cent. interest in whatever stocks you dealt in, isn't that a fact? A. This was, one time I guess in '33.

Q. Sure, in '33. A. He was interested in a couple of stocks mit 20 per cent.

Q. Twenty per cent.? A. And I was interested in a couple of fur transactions with 20 per cent.

Q. Now, in 1933, you made the entry of how much money Fisch put up for stocks, didn't you? A. I guess this time he put, brought up $2,000.

Q. Now, just take a look at this book, July 10th, 1933. Is that your handwriting? A. Yes.

Q. Isidor Fisch puts over to what— what does that word mean? A. Well, it—

Q. To account? A. To account of my name.

Q. Isidor Fisch put over to the account of Isidor and Richard? A. Yes.

Q. That is you and Mr. Fisch? A. Yes.

Q. $2,103? A. Yes.

Q. How did you figure out $2,103? You had some reason for it, didn't you? A. Well, there was always money transaction in furs and so on, I don't know, I can't—

Q. Let me show you how it was done if you don't remember. Do you see that 103? A. I see it.

Q. That is profit on stocks you bought for him? A. Yes.

Q. On this side stocks you bought for him, on this side stocks you bought for yourself. Do you remember that now? Or that is the sales price? A. No.

Q. That is the sales price. This is what you bought for him and this is what you sold for him? A. Yes.

Q. Do you see it? A. Yes.

Q. You put up $2,000? A. Yes.

Q. And profit $103? A. Yes.

Q. So you gave him credit for $2,103. Does that refresh your recollection? A. That is perfect right.

Q. That is perfectly right? So you bought for him up to July, 1933, $6,533.50 worth of stocks.

You sold it for $6,636.50. You had a profit of $103, so you put in there Isidor Fisch, put over to the account of Isidor and Richard, your partnership, $2,103, July the 10th, 1933, is that right? A. That is right partly, but not—

Q. Partly? A. Not quite.

Q. What is not right about it? You tell us. A. On July the 10th, before this date, Isidor was trading already.

Q. Yes, sir. A. But I guess on some stock he was losing and I said this time, "Now listen," I said, "Fisch, give me $2,000 and I want to keep special care of them 2,000 and see what I can make mit it."

Q. You are going to take care of it for him? A. Yes.

Q. You are the money man? A. No.

Q. He is the fur man and you are the stock and the money man? A. Yes.

Q. You are going to take the $2,000 and you are going to manage it for him? A. Yes, them $2,000.

Q. You managed money for other people, too, didn't you? You invested money in stocks for other people? A. Yes, very little.

Q. In the same account, under your name? A. Same account.

Q. That is the account you say is Fisch's and yours, isn't that right? A. Yes.

Q. What were the names of the people you bought stocks for? A. Mr. Stuts.

Q. Yes, you told them you were making money in the stock market, didn't you? A. Yes.

Q. And you said, "Sure—" A. So I did.

Q. And you told some other people you were making money in the stock market and you invested money for them, didn't you? A. Very little.

Q. Well, tell us, you did though, for some people, didn't you? A. Yes, this was from the uncle of my wife, I bought—

Q. From the uncle of your wife? About how many people did you induce, did you tell them you were making money in the stock market, that you were to buy stock for them and make a profit for them? A. Mr. Stuts, only one sale, my uncle, uncle for my wife, I mean—

Q. Yes. A. —was two sales.

Q. People that you just met, you told them that you were in the stock market and making money. A. Yes, I did.

Q. And you told them, "What is the use of you working hard? Why don't you do what I do?" You told many people that, didn't you? "Why don't you make a living in the stock market?" A. I guess I did.

Q. Sure. You told Mrs. Hahn, who was slaving and working in the restaurant, "Why, you are cleaning the same boiler every day here for a year; why don't you do what I do and come into the stock market?" A. You are mistake.

Mr. Wilentz: Just one question, if your Honor please.

Q. You didn't tell this to her? A. No.

Q. But you told others, and you told other people that you didn't buy for, that you were in the stock market and making money, didn't you? A. What?

Q. You told other people for whom you didn't buy.

Q. Now, just one more thing: In August, 1934, you found this box of money; you found out it was money? A. Yes.

Q. You had the box all the time? A. Yes.

Q. You wrote the Fisch family in May and July or somewhere in 1933? A. Yes.

Q. You wrote them what you had there, didn't you? A. Wait a minute. 1933?

Q. 1934. A. Yes.

Q. You wrote them that, didn't you, letters, what you had; you told them you had a couple of trunks of his? A. I gave them the whole statement.

Q. You gave them the whole statement. You told them about the trunks, didn't you? A. Yes.

Q. You told them about the furs? A. Yes, sir.

Q. But you never told them you had a shoe box, did you? A. Because I didn't know it myself any more.

Q. But you had it, you knew that? A. I had it.

Q. But you never told them about that shoe box? A. Because I forgot all about it.

Q. You can give me the reason afterwards, but you didn't tell them? A. No, because I didn't know it, any more.

Q. Forgot all about it, about the shoe box? A. Yes, because—

Q. And that was because you didn't know about it, you forgot about it; is that right? A. Forgot about it.

Q. And when you did find it, you forgot to write them, isn't that right? A. Oh, well, no; I was—

Q. You were saving the secret for them? A. No.

Q. Until Fisch came over? A. Yes. I wouldn't keep the money.

Q. You wouldn't keep the money? A. No.

Q. No, you were not going to keep the money? A. But I was going to keep my share what was coming to me, what it was.

The Court: Mr. Attorney General, we will take a recess until tomorrow morning at ten o'clock. The people will remain where they are until the jury has retired.

(The jury retired at 4:37 o'clock p. m.)

Mr. Wilentz: If your Honor please, I am not through with the witness.

The Court: I understand that.

The Court: The defendant is remanded to the custody of the Sheriff and he may retire.

(The defendant retires from the courtroom in the custody of the Sheriff.)

The Court: The Court will now take a recess until 10:00 o'clock tomorrow morning.

(At 4:39 p. m. a recess was taken until the following morning, January 29th, 1935, at 10:00 a. m.)

Opening of Twentieth Day

STATE vs. HAUPTMANN

Flemington, N. J., January 29, 1935.

TWENTIETH DAY

Present:

Hon. Thomas W. Trenchard.

Appearances:

Mr. Wilentz,
Mr. Lanigan,
Mr. Peacock,
Mr. Large,
Mr. Hauck,
For the State.

Mr. Reilly,
Mr. Fisher,
Mr. Pope,
Mr. Rosecrans,
For the Defendant.

———

(10:03 a. m.)

(The jury was polled and all jurors answered present.)

The Court: The defendant will resume the stand.

BRUNO RICHARD HAUPTMANN resumed the witness stand.

The Court: The Attorney General may proceed when he is ready.

Cross Examination (continued)

By Mr. Wilentz:

Q. Now, Mr. Defendant, you said the other day that on April 2nd, 1932, being the night that it was testified to that $50,000 was paid, that that was the day you left your job. A. Yes.

Q. You resigned; and you testified that you resigned not because you got $50,000 but because you found out they were only going to pay you $80 a month instead of $100? A. Yes.

Q. You worked, I think you said, from either the 15th or the 16th of March? A. Yes.

Q. Until the 2nd of April? A. Yes.

Q. They paid twice a month, didn't they, bi-monthly? A. Twice a month.

Q. Well, at the end of March did you get paid? A. Yes.

Q. When did you get paid? Did you get paid before the 2nd of April? A. Yes, I got paid before the 2nd of April.

Q. That is, you got paid at the end of the month, didn't you? A. Yes.

Q. If the 31st was the end of the month, you got paid at the end of the month, is that right? A. Yes.

Q. Did you get paid by check or cash? A. I guess it was by check.

Q. If you worked half a month and it was $80 a month, you would have a check for $40, wouldn't you? A. Should have, yes.

Q. If it was a half a month it would be $40? A. Yes.

Q. And if it was one day less it would be about

$38 or $37.50? A. No, it would be between 30—36 and 37, I guess.

Q. Well, 30 into 80 would be about 2.66, about $2.66 a day, wouldn't it? A. Well, I didn't figure out yet, but this time I figured out it was only $80 a month.

Q. Of course if you worked as the employment man said for ten days from March the 21st to March the 31st that would be one-third of the month and if your salary or wage was $100 a month then your check would be about $33 and something, wouldn't it? A. My check, I guess the check was more as $33. I guess it was around $36 when I remember right.

Q. At any rate you heard the gentleman testify on the stand from the company that your wage was $100 a month. A. I hear so. That is the information I get from the employment agency too.

Q. And if you worked eleven days March the 21st to March the 31st you would be getting at the rate of $3 a day approximately $33.33 and another $3.33 which would be $36.67, isn't that so? A. Well, as far I can remember this time the last of March when I get my pay check I was figuring out and I find I was only $80 a month.

Q. Well, at the rate of $100 a month how much would it be a day, do you know, in the 31 days in March? A. I don't know, if you figure the Sundays and holidays, how much.

Q. Well, you worked there on the basis of a whole month, didn't you, including Sundays and holidays? A. No; no—

Q. Well, if you worked two days in April how much would your pay be, at your rate? A. I really didn't figure out.

Q. If it was $100 a month it would be about $3.33 a day, wouldn't it; 30 times $3.33 would be

about 100, wouldn't it? A. Well, that depends, when you figure the Sundays in and holidays.

Q. Well, never mind the Sundays and holidays; the two days in April that you say you worked, how much did you get a day? A. (No answer.)

Q. It wouldn't be $3 a day, would it, because that would be $90 a month already? A. Well, when you figure 25 working days in the month, it would be $4 a day.

Q. Four dollars a day? A. Yes.

Q. $4 a day? A. Yes, on a rate of a hundred dollars a month.

Q. Well, you were there 25 working days in April? A. Only got two working days.

Q. Two working days? A. Yes.

Q. Well, how much did you feel you were entitled to for each day at your rate? A. $4.

Q. $4? A. Yes.

Q. At the rate of $80 a month? A. $100 a month.

Q. Well, why did you figure $4 a day if you were only figuring $80 a month? A. I mean if you figure on the rate of $100.

Q. Suppose there were 26 working days? A. Then there is a little bit less for 26.

Q. So it doesn't depend upon the days, it depends upon the month, doesn't it? A. I really I can't remember any more how to figure them days, if you figure Sundays and holidays to it or not.

Q. Well, what I mean is this: February didn't have 31 days and wouldn't have 31 days; they would pay you $80 a month, wouldn't they, at the rate of $4 a day? A. I don't know, I didn't work any—

Q. Well, the wages didn't depend upon the number of days a month, it was for the month, whatever the rate was, whether it was $100 or whether

it was $80, it was by the month, is that right? A. I don't know, I only work a half a morning when I start.

Q. When you made your agreement you made an agreement at $100 a month, didn't you? A. That is right.

Q. And it didn't make any difference whether there were 30 days to the month or 31. It was $100 a month, wasn't it? A. That is how it should be.

Q. Yes. The wages were by the month, isn't that right? A. Yes.

Q. Now, at the end of March, 1932, you had already worked a half a month? A. Yes.

Q. And you got your check. A. Yes.

Q. Why didn't you quit right then? A. I never quit in middle of the week. When I quit it is always Saturdays.

Q. But you knew, you knew that you were only getting $80 a month and you were supposed to get $100. Why didn't you quit right then? A. That is what I said. I always quit on Saturday.

Q. That is another habit you have? A. No, I guess every carpenter does it like this.

Q. Well, but you were being paid by the month not by Saturdays. A. Yes, but besides I can't remember if I got this, my pay check for March on the 1st of April or on the last of March.

Q. Well, that is why I asked you—. A. I am not quite sure about that.

Q. Yes, but that is why I asked you before about that and you said you got it. A. I got the pay check on the first of April.

Q. I show you a check made out to Richard Hauptmann and show you a signature that purports to be yours. Is that yours? Look around the back, please, and see if your signature is on the back. A. That's mine.

Q. That is yours. Now look again. Is there one there, a signature on the back? A. I look here.

Q. Well, is your signature on the front and back of that check? A. Yes.

Q. You got that money, didn't you, from this employer, Reliance Property Management? A. That is the pay check for March.

Q. And that is what you got, is the pay check for March 15th to March 31st? A. March the 15th or 16th to last of March.

Q. The last of March ? A. Yes.

Q. And if it were $3.33 a day, that check would be right, at the rate of $100 a month, wouldn't it—$36.67; that is to say, $33 for a third of a month, 10 days, and the 11th day $3.33? A. I figure out this time when I was working it was only $80.

Q. Only $80? A. Yes.

Q. Well, if it was for a half a month it would be $40 then, wouldn't it, on your computation? A. Yes.

Q. And if instead of being a half month there was one day less, because you said maybe you started on the 16th and not on the 15th—. A. Either on the 16th or 15th.

Q. Then they wouldn't take $3.33 off for one day, because that, at that rate your salary and wage would have been at least $100 a month; isn't that right? A. I couldn't get that.

Q. Now either your wages were $100 a month or your wages were $80 a month, that's correct, isn't it? A. Yes.

Q. You say it was $80 a month? A. Yes.

Q. Now you say you worked either a half month, or one day less than a half month? A. Yes.

Q. If you worked a half month, then your check

would have been for $40, isn't that right? A. Yes.

Q. The check is not for $40, is it? A. It is not.

Q. Now assuming then that you didn't work a half month, but you worked a half month, less one day—. A. Yes.

Q. They would have and should have deducted less than $3 for that one day, at the rate of $80 a month, isn't that right? A. Yes.

Q. But they actually deducted $3.33 from this check, from $40, isn't that right? A. Well—

Q. Isn't that what they did? This is $3.33 less? A. Yes, that's right.

Q. Than $40? A. Than $40.

Q. All right. So that when they deducted $3.33, if you worked one day less than a half month, then the deduction was too much, wasn't it, they took off too much, even at the rate of $40? A. No. Well I can't remember. There was I guess two Sundays in it; but I figure out it was a check for $80.

Mr. Wilentz: I offer the check in evidence.

Mr. Reilly: No objection.

The Reporter: S-268.

(Check referred to was received in evidence and marked State's Exhibit S-268.)

Q. Now you worked two more days in April, you said, and you got paid for two days, didn't you? A. Yes.

Q. And you got paid at the rate of $3.33 a day didn't you? (Exhibiting check to witness.) A. Yes.

Q. That is your signature? A. Yes.

Q. Turn it around and see if it is your signature on the back. A. Yes.

Q. All right, sir. Let me have it, please, when you are through with it.

Mr. Wilentz: I offer it in evidence.

The Reporter: Exhibit S-269.

(Check referred to was received in evidence and marked State's Exhibit S-269.)

Q. Now, Exhibit Number S-268, which is the check for $36.67, that check you cashed at the National Lumber & Millwork Company, isn't that a fact? A. Yes.

Q. That is the lumber yard where you used to work. A. Yes.

Q. That is in the Bronx? A. Yes.

Q. That is a company owned and operated at the time, in 1932, by Mr. Hirsch and Mr. Miller who were here, isn't that right? A. Excuse me, let me look on that date when I cashed it.

Q. Yes, certainly. A. Yes, I cashed it on the 5th of April.

Q. 5th of April? A. Yes.

Q. 1932? A. Yes.

Q. Well, that was a few days after March the 31st, wasn't it, five days? A. Yes.

Q. But you cashed it at the National Lumber & Millwork Company? A. Yes.

Q. That is the lumber company at which you worked? A. Yes.

Q. That is the lumber company owned and operated by the two men who were in court the other day? A. Yes.

Q. Who testified you purchased some lumber from them? A. Yes.

Q. You did not know Violet Sharpe, did you? A. No.

Q. You didn't know anybody who did know her, did you? A. No.

Q. You never heard of Violet Sharpe, did you? A. Well, I read the stories in the paper.

Q. I mean prior to March the 1st, 1932. A. No.

Q. You didn't know anybody connected with the Lindbergh household prior to March the 1st, 1932, did you? A. No.

Q. I want you to take a look at this book— You have already looked at some pages, and I don't remember whether this is in evidence or not, the whole book or just the page.

The Reporter: It should be Exhibit S-258.

Mr. Wilentz: Is the entire book in evidence?

The Reporter: Yes, sir.

Mr. Wilentz: The entire book is in evidence?

The Reporter: It is marked on page 5.

Mr. Wilentz: Will you please, for the sake of everybody, mark it on the cover.

(Book, Exhibit S-258, marked on cover.)

Q. In May, 1932, you bought a radio, didn't you? A. Yes.

Q. How much did you pay for the radio? A. $400.

Q. $400? A. Yes.

Q. In cash? A. Yes.

Q. What date in May, do you know? A. No, I can't remember which day.

Q. After April the 2nd, 1932, you bought some field glasses too, didn't you? A. I guess was in July.

Q. 1932? A. Yes, July, I guess.

Q. How much did you pay for the field glasses? A. Well, $126.

Q. $126? A. Yes.

Q. Before March the 1st, 1932, did you own field glasses? A. Yes; yes.

Q. You did own field glasses? A. Yes.

Q. But after March the 1st, 1932, and particularly in July, I think you said, you spent $125 for a new pair of field glasses? A. Yes.

Q. Now, before you bought that radio you already had a Victrola in your home, hadn't you? A. Yes.

Q. And where did you keep that? A. In the front room.

Q. Did you ever put any money in that Victrola for safekeeping? A. No.

Q. Particularly in the months of April, May, June or July of 1932, did you keep any money in that Victrola? A. There is a possibility I keep the rent in it.

Q. I don't mean the rent, I mean money, lots of money? A. No, never.

Q. Packages of money? A. Never, never got packages of money.

Q. Well, you had packages of money from Mr. Fisch, didn't you? A. Well, 1934.

Q. Yes. Well, in 1932, too, didn't you? A. No.

Q. 1933, too, didn't you? A. No.

Q Didn't you get $6,500 from Fisch in July, 1933? A. Well, I always—

Q. Didn't you? Please answer the question. A. Yes, but not at home.

Q. Well, you got it anyway in cash? A. Yes.

Q. Yes, always in the broker. A. Yes.

Q. Anybody ever see him give it to you in the brokerage office that you know of? A. No, I don't think so.

Q. You don't know. Anybody ever help you count it, the broker's man, the customer's man, the margin man, the bookkeepers, the cashier, anybody count it for you while Fisch was there? A. Well, I can't remember if somebody saw us.

Q. You can't remember? A. But I suppose.

Q. At any rate, during the months that I have indicated, early in 1932, during any months in 1932, you did not have any packages or bundles of money in that Victrola? A. No.

Q. Is it not a fact that during some of those months, particularly after April the 2nd, 1932, that you opened that Victrola and when you opened it in the presence of Fritz Hahn, the restaurant man I spoke to you about yesterday— A. Yes.

Q. —that there were in that Victrola right on top two envelopes about 11 inches long, maybe 14 inches long, a few inches thick of money, two packages, two envelopes? Is it not a fact? A. No, absolutely not.

Q. Absolutely not? A. No.

Q. Absolutely not? A. No.

Q. And didn't Mr. Hahn ask you about the money? A. No, I really can't remember Mr. Hahn was ever in our house, but I will not say so, but I really can't remember he was in my house.

Q. Let me ask you just to refresh your recollection you don't ever remember him being in your house? A. No.

Q. You remember when you took him to Rye Beach? A. That is I remember.

Q. On your way home did you stop at your house with Mr. Hahn? A. I know it was Mr. Hahn, Mrs. Hahn and a little boy.

Q. Yes. A. But I really can't remember if we stopped in our house, because my wife wasn't home this time.

Q. No. A. She was in Europe.

Q. She was in Europe then? A. Yes.

Q. But you had taken Mr. Hahn and Mrs. Hahn to Rye Beach, hadn't you? A. That is right.

Q. They were friends of yours? A. Yes.

Q. They are still friends of yours, aren't they? A. Well, I wasn't in the lunchroom practically a year and a half, two years.

Q. Yes, but there is no trouble between you and the Hahns? A. No, no.

Q. The Hahns don't owe you any money that they didn't pay you, do they? A. No.

Q. You have had no trouble with them at all? A. No trouble.

Q. And you say now that when Mr. Hahn was in your home in 1932, after April the 2nd, 1932, that you did not open the Victrola and there in his presence he saw these two bundles and called to your attention bundles of money? A. Well, you said envelopes before.

Q. Yes, that's right, envelopes, bundles, bundled up with money. A. No.

Q. No? A. No.

Q. All right. Did you open the Victrola while Mr. Hahn was there? A. Well, I didn't know if Mr. Hahn was ever in our house.

Q. Don't you remember when you got to the bedroom you said, "This room you cannot go in"? A. No.

Q. You don't remember that? A. No, I didn't say that.

Q. You didn't say that? A. No.

Q. Don't you remember when you were in your parlor with Mr. and Mrs. Hahn on an occasion that you were looking in one direction, you said to him, "If you only turn around like this—" and then you stopped—does that refresh your recollection about this visit? A. No.

Q. You won't say Mr. Hahn was not in your house, will you? A. That's what I say. I can't remember he was at our house.

Q. You won't say he was not at the house. A. No, I can't say that either.

Q. How many times was Mrs. Hahn in the house? A. I don't know— This—

Q. Was she— Pardon me— A. I guess she was visiting my wife.

Q. Was she in the house before your wife— immediately prior to your wife's departure for Germany? A. I cannot tell.

Q. You cannot tell. Don't you remember her asking you how much money you are giving your wife for this trip to Germany and you said about a thousand dollars I guess will be all right? A. No.

Q. You didn't say that? A. No.

Q. Well, do you remember whether she was there talking to you? A. No.

Q. Will you say that Mrs. Hahn wasn't there? A. That's what I say.

Q. You don't remember that at all? A. I cannot remember Mrs. Hahn was in my house. Maybe she was there and I wasn't home, my wife was home.

Q. No, when you were home. A. I can't remember.

Q. Do you remember your wife showing her

the dresses and everything she had before she went to Europe? A. No.

Q. You don't remember? A. No.

Q. Did you invite Mr. and Mrs. Hahn to your home early in 1932? A. It is possible we invite the family of Hahn.

Q. I don't want to know whether it is possible, please. I want to know whether you did or did not invite them, if you know; or can't you remember that? A. I can't remember that.

Q. After you got the new $400 radio, didn't you tell Mr. Hahn you would like to have him down and see your new radio? A. I even really don't know if he knows I got a new radio.

Q. Didn't you say on your way back from Rye Beach "Come on, I want to show you my new radio"? A. No.

Q. Didn't he say to you, when you got in the house, "My, this is a swell radio; it must have cost a lot of money"; don't you remember that? A. I got the impression you are making up a big story here.

Q. Well, we will see about that.

(Confusion in the court room.)

Q. Will you please answer the question now? A. Will you repeat it again?

Q. Who told you to say that, about your impression? A. That's my impression.

Q. One of your advisors? A. No, that's—

Q. Weren't you told last night to say that? A. No, sir.

Q. You weren't? A. No, sir.

Q. Weren't you told in this court room to signal your wife when a witness was on the stand, to holler at her? A. That is ridiculous.

Q. It is ridiculous, eh? A. Yes.

Q. Were you told to change your story about the board yesterday? A. Never was spoken about it.

Q. Were you told to change your story about the dog? A. What dog?

Q. Did you ever testify about any dog in the Bronx proceedings when you were on trial with reference to extradition proceedings, particularly about March the 1st, 1932? A. I never was asked.

Q. And you never told about it, did you? A. Because I wasn't asked.

Q. Because you weren't asked? A. No.

Q. Weren't you asked where you were March the 1st, 1932? A. Yes.

Q. Weren't you asked what you did that night? A. Yes.

Q. Didn't you tell your whole story about March the 1st, 1932? A. Oh, they are so many little things you can't remember the first time.

Q. But March the 1st, 1932, was the entire story in the Bronx Court, wasn't it? The question was where you were March the 1st, 1932, wasn't that the case? A. Yes.

Q. And you took the stand about that and your wife took the stand about that. Did you or anybody else talk about a dog or your being out with a dog that night, when you were in The Bronx court? A. No, I don't think so. Anybody—

Q. You never mentioned it, did you? A. No.

Q. You never said a word about walking the street with a dog and meeting anybody or walking the street with a dog and not meeting anybody: you never said that, did you? A. No, but I remember afterwards I was out mit a dog.

Q. So that you didn't remember that night—No, I withdraw that. So that on the day you were in The Bronx court you didn't talk about the dog on March 1st, because you didn't remem-

ber it at that time? A. Well, I guess I know it but I never thought it was important.

Q. You didn't think it was important? A. No.

Q. Well, the only thing that was important was the question whether or not you were in New Jersey, as the State of New Jersey claimed, and that was the issue in that court: isn't that it? A. Yes.

Q. So it was important as to where you were every minute of the night of March 1st, 1932, isn't that a fact? A. Yes.

Q. And you testified in that courtroom, did you not, that you went down to your wife's restaurant? A. Yes.

Q. That you had supper with her, and from there you went home and you stayed home all night? A. Yes.

Q. You never said a word about going out with any dog, did you? A. I did not.

Q. No. Now, who told you to change the story and put the dog in the case? A. Well, nobody told me about that, but I—

Q. Nobody? A. —I find out about the dog myself.

Q. You found out about it? A. Yes.

Q. Who did you find it out from? A. From nobody.

Q. Who told you about it? A. From my own recollection.

Q. Who reminded you of it? A. Nobody.

Q. Who told you it would be a good thing to give the story about the dog? A. Nobody.

Q. Now, let's get this straight about this Victrola and the money. You say now again that you never opened that Victrola in the presence of Fritz Hahn, your friend, early in 1932, and that when it was opened there was revealed two packages or two envelopes, or two bundles of money?

A. I even can't remember Mr. Hahn was in our house.

Q. Now please answer the question. You don't remember him seeing any bundles there or envelopes or packages of money in the Victrola? A. No, because there wasn't any there.

Q. All right, sir. I think you told us already that you worked for this National Lumber Company. Now after April the 2nd, 1932, you spent your time in the stock market, as I understand it? A. The stock market, and I was working.

Q. Well, you worked very, very seldom as a carpenter? A. That's right, seldom.

Q. Very seldom. And most of your time was spent in the stock market? A. Yes.

Q. Some of the months you were buying thousands of shares, weren't you, buying and selling? A. In the beginning I paid very, very little.

Q. But at any rate you continued on until you were buying thousands of shares a month and selling thousands of shares a month, isn't that right? A. In April I bought only for $600 shares.

Q. Yes. A. And then I was watching the margin and studying the margin till August or September, I am not quite sure.

Q. Well, at any rate, you continued? A. Didn't put any money in at all.

Q. Up to 1934, you continued, and during that period you finally got to buying and selling thousands of shares, isn't that right? A. Yes.

Q. You bought long and you sold short, isn't that right? A. (No answer.)

Q. You sold short, too, didn't you? A. Yes.

Q. In other words, you sold stock that you didn't own? A. Sold short, yes.

Q. On your judgment that the stock would go down? A. Yes.

Q. During that period and prior to that period

you had learned all about trading in the stock market with reference to buying and selling, hadn't you? A. Well, I know the—

Q. Did you buy any "puts and calls"? A. One time, yes.

Q. What is a "put and call"? A. Put is up and call is down.

Q. You buy it for a short period? A. Yes.

Q. Certain period? A. That is like—

Q. It is a hedge? A. No. It is, put and call, that is like insurance.

Q. Insurance? A. On the market.

Q. In other words you can only lose the amount of money you put up? A. Can only lose on hundred shares $137.50, like that.

Q. You put up a certain amount of money $137 or whatever it is and— A. Yes.

Q. And if the stock moves your way during those days— A. Yes.

Q. Past a certain number of points, you gamble with the broker that a certain number of points you have and after that you gain, isn't that it? A. Yes.

Q. So that you learned all the tricks of the trade? I mean, you knew all about this business of stock brokerages, longs, shorts, puts and calls. A. Well, I am not so familiar with puts and calls.

Q. But familiar enough to buy one. A. Well, I need much help to it.

Q. You lost that money didn't you that you put up for the put and call? A. No, I made a few dollars.

Q. You did make a few dollars? A. Yes.

Q. So you did pretty well then with it, didn't you? A. (No answer.)

Q. And that is where you spent your time, most of it? Isn't that so? A. Yes.

Q. Now, did you have any other business at all

outside of your connections with Fisch and the stock market and the few days that you worked at carpentry? A. No, there was no business besides it.

Q. And the only money that you got from time to time would be money that you took out of the brokerage or money that you took out of the bank or money that you got from furs from Fisch? A. Yes.

Q. No other? A. And some from working.

Q. Some from working? A. Yes.

Q. Now, between 1928 and 1932 you deposited about a dollar and some cents in change. After that from 1932 until September, 1934, you deposited hundreds of dollars of change. I suppose that you can tell us where you got that change? A. When you show me the slips I explain it very clearly.

Q. Well, you have had them in your possession? A. I like to show surely the slips.

Q. Where did you get the silver? A. Sometimes I put $80 or $100 in the bank account and on the slip on the upper line, I guess, it is called silver.

Q. Bills? A. First comes bills and I guess then it comes silver, then copper and then checks, and sometimes when I write it down I didn't write it down behind the bills.

Q. I see. A. I write it down and it is just behind the silver.

Q. I see. You mean then that maybe the deposit slips, the writing is just in such a way that it looks like silver but really is something else.

Q. They are bills? A. They are not silver. Will you show them to me?

Q. I will, if you will just be a little patient. You mean that these deposit slips show that if it shows silver—I withdraw that. You mean that the de-

posit slips do not show deposits of silver? A. Some of them show that deposit.

Q. But the others that were called silver are really bills: is that it? A. Yes, I look—

Q. Now, wait a minute. If you want to see it I will try to get it for you. A. Right here, I want to show you something.

Q. Just one minute. I am going to give them all to you now. A. All right.

Q. Take a look at this one. Let's see what this is. A. Yes.

Q. 1933? A. Yes.

Q. Is there any mistake about that? A. Yes, there is.

Q. All right. Now that shows coins $186? A. Yes.

Q. Is it right between the two lines? A. Yes.

Q. Of coins; not up near the bills? A. Yes.

Q. And not where the checks are? A. But that doesn't—

Q. Is it your handwriting? A. Yes.

Q. All right, sir. A. But that means bills.

Q. It says coins but it means bills? A. Yes. The letter behind joins.

Q. Now just a minute. You want to show it to the jury, don't you? A. Yes.

Q. Well let's show it to them now. You were anxious about it a minute ago. A. You can't expect to carry 200,000 silver in my pocket.

Q. What is that? A. You can't expect to carry 200,000 silver in my pocket in going to the bank.

Q. Yes, but you deposited in your own handwriting—this is your slip, is it not? A. Yes.

Q. January the 14th, 1933, in your own handwriting $186 in coins? A. That's what it is.

Q. That's what it says? A. That's what it says.

Q. That's your handwriting, not mine; isn't that a fact? A. Yes, yes.

Q. All right. A. But that means bills, only it is a little bit below. I never carry so much in my pocket.

Q. Oh, you never carry that much? A. So much bills in my pocket, no.

Q. Oh, you never carry that much? A. No.

Q. Everything on that slip is in your handwriting, isn't it? A. Yes.

Q. Now, you wanted to explain it to the jury. Now let's show it to them. A. Yes.

(Mr. Wilentz hands slip to the jury.)

Q. Now, here you deposited $230 in bills; you had no trouble finding a place for that, did you? A. Well—

Q. That is bills. A. Yah, that is right; sometimes I put it over here, sometimes down below.

Q. Let's stay with this one, this is bills, and you put it in the right place? A. Yes.

Q. Well, we don't have to show it to the jury; that is all right? A. Well, you can show them all.

Q. All right. We will come to that. Bills $55. no silver that day. A. No.

Q. What is this? (Another slip.) A. There is twelve in coins.

Q. Eight dollars in bills? A. Eight dollars bills.

Q. Twelve dollars in coins? A. Yes, check $80.

Q. And $80 check? A. No—

Q. No mistake about those coins, is there? A. No, that is all right.

Q. We will show it to the jury. A. All right.

Q. What was this (another slip)? A. Oh, let's see what that was. That should be two dollars in coin.

Q. Should be two dollars in coins? A. Yes.

Q. A little difficulty there, telling which is which,

fifty and the two? A. No; no, sir; I don't carry so much silver in my pocket.

Q. But it is hard to tell from this deposit slip which is which? A. Yes.

Q. You say the fifty is something else but the two dollars is bills? A. Yes.

Q. We will let it go at that. Now, here, $62 in bills, $13 in coins. How about that? A. Yes, that is all right.

Q. That is your handwriting? A. Yes.

Q. No mistake about that? A. No.

Q. How about this one, nothing in bills, in the middle, between bills and checks, $12 for coins: is that your handwriting? A. Yes, but that means bills.

Q. It means bills? A. Yes.

Q. It is your handwriting? A. Yes.

Q. It is in there between— A. Yes.

Q. —bills and checks on the line for coins and it means bills? A. Just could put it on the line by checks.

Q. You didn't have any trouble putting on the line the bills, did you, the other bills? Let's take a look at this one, $84 in coins, August, 1932, on the line between the bills and checks, right alongside of coins. A. No. I should write it over here.

Q. Oh, that is another mistake you made, but the slip shows coins, doesn't it? A. I didn't pay so much attention of writing the amount out as long as it was on the slip.

Q. As long as you got the credit for the $84, you mean? A. Yes, that is right.

Q. All right; another one: coins $40. A. Yes, that means bills.

Q. 1932: was that August? A. That is August.

Q. August? A. Yes.

Q. 1932, you got it in there as coins, haven't you? A. That is bills.

Q. What is this: is this a mistake, coins $259.75? A. Yah.

Q. You didn't have bills in 75 cents, did you? A. No, probably a dollar.

Q. Well, did they—I mean 75 cents must have gone in there? A. Let me see this.

Q. Did you cut off a quarter of the bill or something? A. No, I put in $260, there was probably one dollar missing, and the rest I made up in silver, and there is a mark on it.

Q. On top it says "some mistake, counterfeit money". A. Counterfeit money.

Q. Counterfeit quarter. A. There was a bad quarter in it.

Q. Well, it must have been changed then. A. Yes, that's what I say. I probably put $258.

Q. The counterfeit quarter wasn't a part of a bill, was it? A. I said I put $258.

Q. You couldn't get a counterfeit quarter out of a bill, could you, like that? A. Don't mix me up.

Q. I am not going to mix you up, but don't you mix anybody else up.

Mr. Reilly: If the Court please, may he answer? He is trying to give an explanation.

The Court: Certainly. He will be given an opportunity to answer.

A. I said when I put this money in I probably got $258 or $259 and to make a round sum I put $260 in. That means in other words I got bills $258 or fifty-nine and the rest to make a round sum $260 I put some in silver.

Q. How much would you say you put in silver? A. A dollar, two dollars.

Q. A dollar or two dollars? A. Yes.

Q. Now this is a deposit slip from a bank, isn't it? A. Yes.

Q. And the figures $259.75 are not your figures, are they? A. (No answer.)

Q. You had some figures on top and it was crossed out? A. Yes.

Q. And the bank clerk put the $259.75, didn't he? A. Because— 10

Q. Please. Will you please answer? Did the bank clerk write it? A. Yes.

Q. Now you want to say he did it because what? A. Because there wasn't any chance to put any in this line here, because—

Q. Where he crossed out? A. Because it was crossed out.

Q. Did he have any other deposit slips? A. Oh, there are plenty laying around.

Q. Plenty. But he put in $259.75 at that point? 20 A. Yes.

Q. And your statement now is that part of them, very little of them were coins? A. Probably one dollars or two dollars.

Q. All right, sir. Now we have your explanation, haven't we? Now here is one where you did put $200 worth of bills in, 22nd of September, 1932? A. That is what—

Q. That was bills? A. That was I always said, I really didn't pay much attention, if I put it 30 behind bills or behind coins or behind checks.

Q. You weren't working that month, were you, September, 1932. A. September, 1932? I can't really remember whether I worked or not.

Q. Where did you get the two hundred that you put in there in bills? A. That is fur profit.

Q. Fur profit? A. All of this is fur profit.

Q. Of course the fur profit will show in the book, won't it? A. No, it is only fur profit in 1933.

Q. The profit won't show in the book that you 40

kept, is that it? A. No, only the fur profit in 1933.

Q. Now, here are two items, one for checks and one for coins A. Yes.

Q. How much are the coins there? A. It should be $132 in coins.

Q. That is what it says, doesn't it, $132 in coins? How much checks? A. And $32 in checks.

Q. All right. Is that a mistake too? A. Yes, $130 in bills.

Q. It couldn't be coins, could it? A. No, sir.

Q. But it is in there in your handwriting as coins. A. It is.

Q. And the bank teller's okay at the bottom, 162. A. 162 is right.

Q. Yes. A. He doesn't care much if it is coins or if it is bills as long as the amount is okay.

Q. I see. Here is another one, $150, at the top, where it was bills, crossed out and put in $139 worth of coins. Is that a mistake too? A. Yes, that's probably a counting mistake.

Q. A counting mistake? A. Yes.

Q. That's a mistake? A. That's bills.

Q. I see. A. That's all bills. There are a few silver.

Q. So the Mt. Vernon Trust Company and—By the way, all of these are in the Mt. Vernon Trust Company, aren't they? A. Yes, as the bank teller doesn't pay much attention where you write it, how much money you put in, if you write it behind the coins or behind the bills, as long as the money is correct in it.

Q. Now let me show you this deposit slip for a different bank, August 25, 1932. A. Yes.

Q. $32 in bills. A. Yes.

Q. $12 in silver. A. Yes.

Q. Is that right? A. Yes.

Q. You didn't deposit $12 in silver during all

the years prior to 1932 did you? A. That is in which year?

Q. Before 1932, during all the time you kept a bank account you didn't have $12 altogether in silver, did you? A. Oh, I can't remember.

Q. Well, you heard the gentleman from the Federal Government testify about your slips? A. I didn't check up with this, might have been, too.

Q. Here is another one $10 in silver, is that right? A. Yes. Well, $115 bills.

Q. $115 bills, $10 in silver? A. $6.77 checks.

Q. April 16th, 1932, where did you get that money? A. Some of the money—my wife was a little disgusted there was no more money in the bank, I put something from the $4300 in the bank.

Q. Your wife was a little bit disgusted because there was no money in the bank? A. Yes.

Q. So you took out of the $4300 that you were hiding away from her in the trunk and you put that money in there? A. Some of them, yes.

Q. Well, that part. Here is another one, Central Savings Bank, $74 bills, $10 in silver? A. 1933, is it?

Q. I don't see the date, where is the date? A. Makes no difference.

Q. All right, that is $10 in silver? A. Yes. Well, there are sometimes slips where the Trust Company has marked $200 in silver and now you compare them slips, I guess the highest is $12 in silver.

Q. Well, these are just three slips and that is $10, $12 and $10, that is $32 in silver. A. For all them slips.

Q. Takes a lot of nickels to make $32 in silver? A. I never got a nickel job.

Q. You talked about depositing $750 in gold or exchanging it? A. Yeah.

Q. That day you exchanged $500 more in gold, didn't you? A. What?

Q. The day you took $750 in gold to the Central Savings Bank? A. Yes.

Q. You took $500 more in gold, didn't you, that day? A. No; I got $500 in gold currency laying in the strongbox in the Central Savings Bank.

Q. I see. And you deposited that? A. I deposited it.

Q. The $750 that Mr. Reilly asked you about the other day, and he said to you you went down and took this gold and deposited it in your name: do you remember that? A. With Central Savings Bank.

Q. Remember him asking you that? A. No, I can't remember exactly the question.

Q. Do you remember testifying the other day that you took $750 in gold down to the Central Savings Bank, a bank which you dealt with, deposited it in your name, where they had your address? A. Yes.

Q. You didn't deposit it, did you, the gold? A. Yes.

Q. You exchanged it, didn't you? A. (Shakes head.)

Q. And then deposited the bills? A. Now, the gold, the gold currency—

Q. Not the gold coins, the gold bills. A. I don't know what is operation, but I didn't take any money out, I left the money in the bank.

Q. I know. But you told here the other day that $750 in gold bills you took to your bank, the Central Savings Bank, where you had an account for years, under your name, and you deposited that $750 in gold; you deposited it, you say. Did you make a mistake the other day? If you did, you correct it. A. Let me—I explain it from beginning.

Q. Yes, sir. A. I went down to the Central Savings Bank and went down to the strongbox where I got the gold coins and even certificates was laying in the strongbox.

Q. Yes, sir. A. I dug it out, went upstairs and put it in for deposit.

Q. For deposit? A. Yes.

Q. You didn't exchange them, did you? A. Well, I don't know what is, was operation, you have to exchange it first and then deposit it, or I really can't remember.

Q. Well, you testified, that is the reason I want to give you a chance to correct it. You testified that you took that gold, particularly with reference to the gold bills, and you deposited it in your regular account, the gold. Now, what I want to know is this: isn't it a fact that what you did was you took the $750 in gold bills to some place and exchanged it for other bills and took the $750 of non-gold bills and deposited it in the Central Savings Bank? A. No.

Q. All right. That was March, 1933, you said, wasn't it? A. Well, I—about the time of the—

Q. About the time of the bank holiday? A. No, the time Mr. Roosevelt called the gold in.

Q. That is the time Mr. Roosevelt called in the gold? A. Yes.

Q. Well, now, take a look at this.

Mr. Wilentz: Will you get me the $750 slip?

Mr. Peacock: Mr. Attorney General, wait until the jury see those slips, they are examining them carefully.

Mr. Wilentz: Would your Honor mind while the jury is inspecting those slips,

that I take a moment while they are inspecting those slips.

The Court: Why, as you wish, Mr. Attorney General.

By Mr. Wilentz:

Q. While the jury is looking at that, will you please look through this book? Those papers in there have nothing to do with the book except to help me, but you can look at those too.

Mr. Reilly: While he is looking at the book, General, may I speak to you a minute?

Mr. Wilentz: Yes, certainly.

(Mr. Wilentz and Mr. Reilly confer out of the hearing of the jury.)

A. Do you want to have this (indicating S-258)?

Q. As soon as you are through, to see if it is your handwriting and everything that I showed you yesterday. A. I can't remember everything you showed me.

Q. All right. A. (The witness examines the exhibit page by page.)

Q. That is your book, isn't it? A. It is.

Q. Showing you book S-258. It is a book in which you kept accounts of stocks and furs, is it not? A. Yes.

Q. It is a book in which you kept account of your dealings with Fisch? A. Yes.

Q. And it is a book in which you kept account of your own stock? A. Yes.

Q. You kept the book for yourself, did you not,

for your own information? A. No, that's the book, yes.

Q. Yes. But you kept this book, you kept this record, S-258, for your own information. A. Yes.

Q. You didn't keep it to fool anybody, did you? A. No, no.

Q. You didn't keep it to hide anything from anybody? A. No.

Q. It is a true and accurate and correct statement of what is in here? A. Yes, but it is not all in.

Q. It is not all in? A. No.

Q. During the time that it covers is it correct or incorrect? A. It is incorrect.

Q. It is incorrect? A. Yes.

Q. Why did you keep it incorrectly? A. Because I didn't put everything in it what should be in.

Q. Why didn't you? A. Well, some of them was not my business.

Q. Well, whatever is in here is correct, isn't that so? A. Yes.

Q. And the only part that is not correct is that you left out some things? A. Yes.

Q. But if it says you put up $17,500 in the books that is correct, isn't it? A. That is not actual money, seven thousand; it is only—

Q. But if the book says so, is it correct? A. Well, let me explain it, please. Them $75 means securities bought $12,000—

Q. Stocks, you mean? A. Yes.

Q. Your stocks? A. My stocks, $9,500 mine.

Q. Well, your book says 12. Is that a mistake? A. Yes. This was agreement between us, Mr. Fisch and me, that he wants to keep them hundred shares.

Q. But if your book says $12,000 of your stocks

it is not correct, it should be $9,500, is that right? A. Yes, it should be nine—

Q. And if you wrote to the Fisch family in 1934 and said $12,000 in stocks, that was not correct? A. Well, I wrote Mr. Fisch—

Q. No. Please answer the question. If you wrote them that you put up $12,000 worth of stocks then you were mistaken in the letter too, is that so? A. No, I can't say so.

Q. Well, was it correct, the $12,000, when you wrote it to Mr. Fisch, Mr. Fisch's brother in Germany, that you put up $12,000 worth of stock? Was that correct when you wrote that in 1934, or was that a mistake? A. No, that is correct.

Q. It is correct? A. It is correct.

Q. So you did put up $12,000 in securities? A. Yes.

Q. All right. Not $9,500? A. No. But I was pretty near sure when I sold Isidor's stock, I wrote in a letter, I am going to sell your stock, it was one thousand Eitingon-Schild.

Q. Who did you write that to? A. To Isidor.

Q. When? A. I guess this was in January or February, one, either of them month.

Q. When you wrote to Isidor's family, after his death, did you say anything about the stock you sold for him in January or February? A. No, I did not.

Q. He only had a 20 per cent interest in the stocks, didn't he? A. Oh, no.

Q. Did he have a 20 per cent interest in anything? A. Let's explain it. When I said to Mr. Fisch, I said to him, "Give me $2,000, I will keep care of it," we start only for a very short period and then he changed it again, it was, he didn't make enough money in it, that is really the most money, and I said, "Now listen, we will make it this way, we will give them $2,000 over und I give

you 20 per cent for all my stocks from the profit or from the loss."

Q. Yes? A. And he said, "All right, that is O.K."

Q. Well, that is right. A. And one or two days after, he changed his mind and he said, "I don't like it this way, I pay for myself again." All right, so I leave it this way.

Q. When did you and he start up this account where you were to put up $17,500 and he was to put up $17,500? A. In October, end of October 1933.

Q. You didn't start this partnership in stocks until October 1933? A. From this date it was a fifty-fifty partner.

Q. From that date? A. Yes.

Q. When did you start your partnership in stocks, fifty-fifty or otherwise? A. Fifty-fifty was only in certain stocks.

Q. When did you start your partnership before October, 1933, the 20 per cent partnership? A. The 20 per cent partnership in stocks really didn't get into effect.

Q. Never got into effect? A. No.

Q. So then you started dealing in stocks before October 1933 with Mr. Fisch, didn't you? A. Oh, yes; he was in—he bought stock in '32.

Q. Everything that was bought was bought in your name or Anna's name, Anna Schoeffler, isn't that right? A. Yes.

Q. By you for him? A. Yes.

Q. But by you? A. By me for him.

Q. He never gave an order to the broker, did he? A. No. But he usually used to call me up if he wants something.

Q. So that you were his broker? A. Yes.

Q. You were the man that handled his money. A. Yes.

Q. After April the 2nd, 1932, you told us you bought—you told us about the radio and you told us about the field glasses. Did you buy a canoe? A. Yes.

Q. Did you take a hunting trip, several hunting trips? A. Well, I really can say only one.

Q. Did you take a trip to Florida? A. Yes.

Q. And your wife went to Germany? A. Yes.

Q. And during all that time neither you nor your wife worked? A. I was working— Well, I made enough money on the market and on the fur.

Q. Now please answer the question. During that time you didn't work, did you? A. I did work.

Q. In the market? A. Yes. In the market and as carpenter.

Q. Well, about how much would you say you earned as a carpenter, from 1932, April 1932, until September, 1934? A. Couple hundred dollars.

Q. A couple of hundred dollars? A. Yes.

Q. Your wife quit work too, when she went to Germany, didn't she? A. Yes.

Q. So that from June, or from April, 1932, April the 2nd, 1932, to September, 1934, when you were arrested, you made $200 as a carpenter and your wife did no work at all either, she quit work? A. Yes, she quit work.

Q. In June, 1932? A. June, 1932.

Q. You put this money into the bank because your wife was disgusted on account of the condition of the bank account, isn't that right? A. Yes.

Q. She was also disgusted because you quit your job, wasn't she? A. No.

Q. Didn't she say to you, "Richard, why are you quitting your job, we have only got a few

dollars in the bank?'' And isn't that why you then went and put some money in the bank? A. She wasn't hollering at me when I quit the job.

Q. When was she hollering at you? A. I say she was not hollering at me when I quit the job.

Q. You say she didn't holler at you when you quit the job. Did she holler at you some other time? A. No, I really can't remember.

Q. You can't remember? A. No.

Q. On the day that you were arrested and this $20 was found in your possession and you told this story, you told the authorities that you had started to circulate these gold ransom bills for a few weeks: isn't that right? A. I can't remember what I said to them.

Q. Well, you did, you had been circulating them for a few weeks, hadn't you? A. Yes.

Q. Why? A. Why?

Q. Because you needed the money? A. Oh, no, I didn't need the money really—

Q. Didn't you say— A. There is practically no particular reason why I put it in circulation. I just keep as well put it in the box and leave it there. I don't see really any particular reason for put it in circulation.

Q. Why did you circulate it then? A. Well, I thought I don't, I wouldn't take any check for stock account, and so I spent it.

Q. So that you took it because you didn't want to take money out of your stock account and you had to have money for living expenses, so as you needed money for living expenses you took, if you needed money for gasoline you took a ten dollar bill, or a five dollar bill, whatever it was, and you went down and you got gas and you got change: is that right? A. Yes, that is right.

Q. In other words, you and your wife went in to buy a pair of shoes. A. Yes.

Q. You had to have money, of course, to buy shoes with. A. Yes.

Q. So you didn't want to take the money from the broker, so you took a ten, a twenty dollar bill or a ten dollar bill out of this money, isn't that right? A. That is right.

Q. And you needed money from time to time to buy groceries, or whatever it was, if you needed the money you would go down and get one of these bills and you would go out and cash it, isn't that right? A. Well, I never went down simply for one bill, that is what I say; the first time I took a couple out; when I count the second one I took a couple out. So I figure altogether I put in circular twelve to fifteen bills.

Q. Now you see you are getting away from the point. The point is you took them out two or three at a time as you needed them to buy various things; you didn't want to take the money from the brokerage account. A. Yes.

Q. Before that time when you needed living expenses, you took it from the brokerage account, isn't that right? A. Well, or check out of the bank.

Q. Or out of the bank, yes, before that; after that, if you needed money to buy some things to run your household, or whatever it was, during those few weeks you took those—what did you say about twenty of them? A. About twelve or fifteen.

Q. About 12 or 15 of them. As you needed it you would go into that gold heap and take out one or two at a time, is that right? A. Four or five at a time.

Q. Well, four or five at a time. That was only when you got through with four or five and you needed more money to buy either food or shoes or something else, then you would go in for the other

four or five, is that right? A. Oh, I really didn't go except—I took the money out when I count it.

Q. But you took the money out because you needed it for your household expenses and you needed it for necessary things and you didn't want to take it from the brokerage account; that's right? A. Yes, that's right.

Q. There is no question about that? You are sure about that? A. (No answer.)

Q. You didn't take this money out just to cash it, in other words, did you? You took it out for things you needed, is that right? A. Took it out for living.

Q. Yes, you didn't take the bills out to cash, just to get rid of the gold and get others? A. No.

Q. You took it because you needed it for groceries, for shoes, for other things, for living expenses, isn't that right? A. Yes.

Q. And you didn't want to take the money out of the brokerage account? A. That is right.

Q. Well, if you needed that money so badly while you were doing that in August and September 1934— A. Yeah.

Q. —you didn't want to take money out of the brokerage accounts? A. Well, this money was laying there and was just handy.

Q. Why did you deposit a couple of hundred dollars during August and September if you needed the money and didn't want to take it out of the brokerage accounts? A. There was—I took out from one bank, there was close to about—

Q. Pardon me. Mr. Fisch was dead at that time, wasn't he? A. Yes.

Q. You didn't get that from Fisch, did you? A. Yes—

Q. Why did you make deposits in August and September at the very time that you were taking out gold from this money because you needed it

for your living expenses and didn't want to take it out of your brokerage account? A. The one bank I opened—it was from the Mount Vernon bank, Mount Vernon Trust Company. This bank was closed, und—and I opened a new bank in 86th Street, I took out $109 from Mount Vernon and the rest—in the meantime I spent the money, them gold certificates, I still took out a check from my brokerage account, and even from the bank account we took out the money.

Q. Is that your answer? Are you finished or do you want to continue? Are you finished with your explanation or do you want to continue? A. What was the real answer now, I forgot the answer?

Q. I mean, are you finished with it? A. What is the real answer, can I get it again?

Q. What do you want again, the question? A. The question.

Q. Well, you have been answering it for several minutes. Are you a little bit confused or something? A. Oh, no, nothing at all.

Q. No, you wouldn't get confused, would you? A. No. Why should I?

Q. No, certainly not. Are you finished with your answer? Do you want me to ask the question again? A. Yah.

Q. Or do you think—sir? A. Give me the question again.

Q. You want to start all over again, your answer? A. No, I forgot it now.

Q. You forgot what? A. Will you give me the question again, please?

Q. Yes, certainly. Why did you deposit moneys in your bank account at the very time in August and September that you were circulating these gold ransom bills, when you just testified that you needed those bills for living expenses,

because you did not want to draw the money from the brokerage account? Do you understand it? A. Yah, I understand it.

Q. Now, do you want to make a different answer than you gave before? A. Oh, no.

Q. Do you want to make another answer? A. That is just the same answer. That is, you mean probably them $250?

Q. Yes. A. In 86th Street?

Q. Yes. That's a hundred dollars for the Mount Vernon, a hundred and—

Q. Well, let's stop at the hundred from the Mount Vernon, or a hundred and fifty. A. I guess a hundred and ten dollars.

Q. Well, whatever it was. What did you get, a check or cash? A. (No answer.)

Q. Well, whatever you got why didn't you use that instead of using, if you needed the money— A. Well, the real reason I opened this account is because this year we was figuring on going to Germany.

Q. That is the year you were figuring on going to Germany? A. Yes; this year.

Q. Why didn't you use that money for expenses instead of the gold? A. Which one do you mean?

Q. The money you got from Mount Vernon. A. From Mount Vernon?

Q. Yes. A. I guess my wife she didn't really know I got a bank account in Mount Vernon.

Q. Your wife didn't know that you had a bank account in Mount Vernon? A. I don't think so, she don't know it; I only transferred the money—

Q. Speak up a little louder. You are not getting weak, are you? A. No, no.

Q. Not a strong man like you? A. Only I transferred money from Mount Vernon to the 86th Street, $110, and then I put the—took check out from the brokerage account and some from the

bank and get some money in this bank, that should be our expenses for this year to Germany, so I want to put it up little by little.

Q. Wanted to start a special account? A. Special account for our voyage to Germany this year.

Q. Special account for your trip to Germany this year? A. Yes.

Q. When did you want to start that, in August— A. When I started?

Q. August 1934, is that when you wanted to start it? A. Yes, I guess it was.

Q. You made these deposits in September, did you not? A. Yes.

Q. September the 1st, $40; September 11th—I want to help you—September 11th, $40; September 17th, $50; $40, $40, $50? A. Yes.

Q. September? A. Yes.

Q. From the 1st to the 17th? A. Yes.

Q. You were arrested the 19th? A. Yes.

Q. You wanted to keep this account in order to start building a fund for Germany? A. That's right.

Q. Well, you weren't worried about having any money to go to Germany with, were you, in September? A. Well, not worried about it; that's right; because if you take a trip , if you build it up little by little, then you don't feel it so much.

Q. Sure. A. If you take a thousand dollars out from the bank, if you build it up little by little, you don't feel it so.

Q. You wanted to build it up little by little? A. Yes.

Q. In order to have enough money? A. Yes.

Q. September 1934? A. Yes.

Q. Well, you had thousands of dollars in September 1934, and you knew you had it, didn't you? A. You mean in stock?

Q. In everything: thousands and thousands you

had in September 1934, didn't you? A. It was never my intention to spend more money for them gold certificates as I did.

Q. Never more than you did? A. No.

Q. How much did you intend to spend? A. All I did spend I wouldn't have spent any more.

Q. You were going to stop then? A. Yes.

Q. Even though you weren't arrested? A. Yes.

Q. What were you going to do with the balance? A. You mean mit the other certificates?

Q. Yes. A. Give it to Mr. Fisch.

Q. You were going to stop after you spent twelve or fifteen of them? A. Yes.

Q. And you were going to go to Germany? A. Yes.

Q. Of course, you didn't touch any more of that gold? A. No.

Q. Why did you touch the twelve or fifteen if you weren't going to touch the others? A. I tell you, there is no special reason for it.

Q. Well, twelve or fifteen, the most that could be was $300: isn't that right? A. Not as much; about $200.

Q. Well, I say the most it could be would be $300? A. Yes.

Q. Twenty times fifteen would be 300; if the bills were smaller than twenties it would be less? A. Yes.

Q. You only wanted to dip into $300 of that, is that it? A. I say 12, 15 bills.

Q. You wanted to give it back to Mr. Fisch? A. Oh, I still got coming from Mr. Fisch.

Q. Well, I know, but you just said all you were going to use was these twenty bills or fifteen bills? A. Yes.

Q. And the rest you were going to give to Mr. Fisch's brother? A. My intention was to give him $12,000.

Q. You just told us that you only intended to circulate and pass the 12 to 15 bills that you took out, that the rest you were going to return to the Fisches? A. Yes.

Q. That is what you told us? A. Yes.

Q. Is that the truth? A. That's the truth.

Q. All right, sir. So that you intended to return the rest of the gold to the Fisch family? A. Yes.

Q. That being so, why did you take these 12 or 15? Why didn't you return all of it? A. Now, I want to explain it before I get any farther. When it was all to Fisch, I went to this can here with them twelve thousand dollars. I kept them two thousand dollars that was packed separate, I kept it away, and even them seven or eight hundred dollars was in this piece of wood. My intention was to give him twelve thousand dollars, if there is any trouble would come up, so I would be on the safe side to have my two thousand dollars, and them eight hundred dollars was different from stock—I got it on the safe side.

Q. You put two thousand dollars away in one place? A. Yes.

Q. So that if there was any trouble and they found the money you would at least have the two thousand that belonged to you. A. Yes.

Q. What trouble were you afraid of? A. Well, because there wasn't any written between Mr. Fisch and me.

Q. What trouble were you afraid of? A. Maybe his partner would object to it.

Q. What trouble were you afraid of? A. Maybe Mr. Fisch he wouldn't believe me.

Q. What trouble were you afraid of? A. The trouble is, he wouldn't believe me because—

Q. How could Fisch find, how could Fisch's brother in Germany find the money hidden in

your garage in the Bronx? A. I would give it to him.

Q. You would give it to him? A. Yes.

Q. Well then, you wouldn't have any trouble, would you? A. By giving him the whole amount he would said,—now I said, "Listen, your brother owes me so and so much money" and he would said, "Have you got any slip or anything written?" And I only can say, "No."

Q. You would tell him that you had this money? A. Yes.

Q. You would tell him that his brother owed you money? A. Yes.

Q. And that you were taking it? A. Yes.

Q. And then you might have some trouble, he would sue you, is that it, or something like that? A. Say that again, I didn't get it.

Q. You would tell him when he came here, "I have so much gold, $14,800, about 15,000"— A. Yes.

Q. —and then you would say to him, "But I am not going to give you all of this, I am going to keep $2,000, because that is mine, he owes me that." A. Yes.

Q. And then, maybe you would have trouble from him, is that it? A. Well, then I wouldn't care for the trouble then, I get my $2,000 in cash.

Q. Certainly. Well, why did you separate the $2,000 and hide it—I will withdraw that, you have told us why. You were afraid of trouble and so you separated the $2,000 from the rest? A. Yes.

Q. So that if they found the rest and didn't find the $2,000, at least you would have your 2,000, isn't that right? A. Oh, no, that is—

Q. What is the trouble then that you were afraid of? A. The only trouble was, I was afraid if I gave Mr. Fisch all the money and he would say, "Thanks," when I said to him, "Now listen,

I am still getting from your brother $2,000 for dis and dis, there is some of dis and some of fur profit,'' he wouldn't believe me.

Q. Did you hide the money in the garage so that Fisch's brother wouldn't find it? A. I would tell him myself.

Q. Did you hide the money in your garage in the Bronx so Fisch's brother in Germany couldn't find it? A. I would show him myself the money.

Q. Did you hide the money in the garage in the Bronx so Fisch's brother couldn't find it? A. I answered this question two times.

Q. What was your answer? A. I would show him, I would show hisself

Q. Why did you hide the money in the garage? A. I have to hide it some place.

Q. Why did you have to hide it? A. If somebody comes in he takes it away.

Q. Why would they take it away? A. Because it is money.

Q. Sir? A. Because it is money.

Q. You had a bank account, you had a vault. A. Yes.

Q. You didn't put it there. A. No.

Q. Why did you hide it in the garage? A. I have to hide it some place.

Q. Why do you have to hide it? A. I answered this question.

Q. Why didn't you hide it in the trunk? A. That is what I said, I have to hide it some place.

Q. You were going to tell Fisch's brother about it, weren't you? A. Yes.

Q. You were going to tell Fisch's brother about it? A. Oh, yes.

Q. Why didn't you write him about it? A. I was going to write him about it.

Q. Why didn't you? A. In the meantime I get arrested.

Q. Why didn't you write him before you got arrested? A. Well, I didn't come so far yet.

Q. Sir? A. I didn't come so far yet.

Q. When you had $4,200 of your own to hide that you wanted to hide from your wife, did you hide and bury it in the garage? A. No.

Q. For one month you had possession of this money, hiding it in a garage for at least one month and you never wrote Fisch's brother or family at all? A. No, I wrote him a letter before and I didn't get any answer for it.

Q. They asked you please to tell them what Fisch had left in this country, didn't they? A. Yes.

Q. And you wrote them a letter and you said a couple of trunks with nothing in it. A. Yes.

Q. Not even worth sending it. A. Yes.

Q. Why didn't you finally write them about the money you found? You wanted to tell them, you were going to tell them? A. Yes.

Q. Why didn't you? A. I was waiting for answer from Mr. Fisch, Pincus Fisch.

Q. Why yesterday you didn't give that reason, did you? A. (No answer.)

Q. Do you remember yesterday the reason you gave for not writing him? A. (No answer.)

Q. Do you remember the excuse you gave yesterday in this court room for not having written to Fisch, Fisch's brother? A. What was my answer.

Q. Do you know the answer? A. Well, that is my answer.

Q. Do you remember it? A. I said Mr. Fisch was coming over here anyway.

Q. That's it. That's what you said yesterday? A. Yes.

Q. Now, today you say that you didn't write to Fisch because you didn't get an answer to your letter; you had written him and you didn't get

an answer, and so you didn't tell him. A. No, you are mixed up again.

Q. I am mixed up? Well, then you straighten it out. Didn't you just a moment ago say that? A. Yes.

Q. I ask you why you didn't write to Fisch during the months prior to your arrest, and you said you wrote to him and you didn't get an answer. A. In the meantime I found—

Q. And then you said in the meantime, then you were arrested. Now you say you remember that yesterday you stated that you didn't write to Fisch about this gold because he was coming to the United States anway: isn't that right? A. Yes.

Q. As a matter of fact, you knew that you were planning to go to Germany right at that time, weren't you? A. Oh, that is planned for over a year already.

Q. Certainly. For over a year you had planned to go to Germany? A. Yes.

Q. And you had written to your mother about it and she had written to you about it, isn't that so? A. I wrote to Mr. Fisch even about it.

Q. And she had gone to the police to straighten out whatever difficulties there were, isn't that right? A. There wasn't any difficulty.

Q. She wrote you back that the Statute of Limitations—or the thing was automatically expired? A. Yes.

Q. Isn't that right? A. Yes.

Q. And that you could come back? A. Yes.

Q. That was right about that time in 1934, isn't that right? A. Yes.

Q. Yes. So you were planning all the time to go to Germany about that time anyway, weren't you? A. Yes; and if I remember right I was telling Mr. Fisch in the letter if he wants me to

bring all his stuff over there, them two satchels.

Q. When did you plan this trip to Germany? You said it was planned a year already. A. About a year.

Q. A year before September, 1934? A. I mean a year from the date, about.

Q. From what date? A. From today.

Q. From today? A. Yes.

Q. You hadn't planned it a year at the time of your arrest, you don't mean that? A. No. We spoke a couple of times about going to Germany, but the date was set for 1935, because my mother is seventy years old.

Q. Now in January, 1934 then, you planned to go to Europe, is that right? A. (No answer.)

Q. That is when you started your plan, January, 1934—this is January, 1935, you said about a year ago? A. Yes, but this is in our mind to go over to Germany for years and years, but there wasn't any date, final date set.

Q. You wanted to go over because your mother was seventy years old? A. Yes.

Q. You sent her $50 a year, didn't you? A. Oh, I really don't know how much I sent her.

Q. Well, about $50 a year? A. Yes.

Q. That is about how much you sent her each year? A. One year a little bit more, one year less.

Q. One year a little bit more, one year a little bit less? A. Yes, and if I wrote my mother, if she needs any money she should write.

Q. Yes, you sent her about $50 a year? A. I can't remember how much I sent.

Q. Now you had $4,300 in a trunk? A. Yes.

Q. And you always kept money home, didn't you? That is why you had the 4,300, you always took off some money to hide away? A. Yes.

Q. Do you remember any time from 1931 up to

1934, that you didn't have money in the trunk hidden away? A. 1900, that—

Q. From '31, or from '30 or from '29, up to the day of your arrest, up to today, do you know any time during that period— A. After—

Q. —covering five years approximately, that you didn't have money in the trunk? A. After '33 I didn't have any more—

Q. Why not? A. —Any money at all.

Q. Why not? A. I spent everything.

Q. You spent everything? A. Yes, all—

Q. You lost? A. No, all the money was invested.

Q. All the money? A. Yes.

Q. So you didn't always have cash in your trunk, did you? A. No, since this date there was no more money.

Q. What part of '33? A. Since spring.

Q. What month would you say, give us your best recollection, what do you call spring? A. Spring time is March, April.

Q. March or April, 1933? A. Yes.

Q. How much money did you have in that trunk in February, 1933? A. There was only some gold certificates.

Q. How much? A. I can't exactly say how much.

Q. You don't know how much gold you had in the trunk in February, 1933? A. I say it was altogether $750 in gold certificates.

Q. All right, how much more money did you have in the trunk? A. Nothing besides the—

Q. $750. A. Yes.

Q. That is in February, 1933? A. Yes.

Q. How much did you have in there in December, 1932, the beginning of the month, about how much? A. The same.

Q. How much did you have there about June, 1932? A. June, '32?

Q. Approximately you had $750 in December, how much did you have in June, in cash, if you can remember? A. There was very, very little.

Q. How much, 750? A. There was.

Q. Less than a thousand? A. In June, 1932, is it?

Q. Yes, sir. A. A little bit more as a thousand.

Q. Little bit more than a thousand dollars? A. Yes.

Q. Less than $1,500? A. Yes.

Q. June 1932? A. Yes. I explain it this way: in—

Q. Just one minute. You don't need any explanation as to the amount of money that you had in your trunk in 1932. Now you have given the answer of the amount, are you wrong about it? A. No.

Q. Do you want to correct the amount? A. No.

Q. You don't want to correct the amount? A. No.

Q. A little more than a thousand dollars, you said? A. Yes.

Q. And I suggested to you so you would have plenty of room, between a thousand and fifteen hundred dollars, that is correct? A. But there—

Q. Is that correct? A. It is correct.

Q. Yes, sir. Now what do you want to say? A. That's in end of May I took out $1,500—

Q. We will come to that. A. And—

Q. You see, I am up to June 1st now. A. Yes.

Q. All right. A. And after, I put them $1,500 back again, when I took it out, and I bought the mortgage again.

Q. All right. We will come to after and before when we come back from the recess, if the Court will grant it.

The Court: Five minutes recess.

(At 11:32 a short recess was taken.)

(After a short recess the jury was polled and all answered present.)

The Court: The defendant may take the stand.

Cross Examination (continued) by Mr. Wilentz:

Mr. Wilentz: Have you the last question?

(The last question and answer was read as follows: "Question: You see, I am up to June 1st now. A. Yes. Q. All right. A. And after, I put them $1,500 back again, when I took it out, and I bought the mortgage again. Q. All right. We will come to after and before when we come back from the recess, if the Court will grant it.")

Q. Now, June the 1st I think you said you had a little over a thousand dollars. A. Between a thousand and a thousand five hundred.

Q. All right. But you had had more money in May, 1932, hadn't you, May the 1st? A. Yes.

Q. And you took out some money for your mortgage that you bought: is that what you mean? A. That is the end of the year.

Q. Well, all right. Then let me not suggest it to you. How much money would you say you had in May, on May the 1st? Had you taken any money out between May and June, during the month of May 1932? A. I can't remember that.

Q. You were starting to give us an explanation

about a mortgage, and I wanted to refresh your recollection and give us a chance to give us the explanation, if you had it. You can't remember now, you say? A. I say I took out at the end of May.

Q. Well, did you take any money out? A. At the end of May I took out $1500.

Q. That is what I want to know. In May 1932 you took out $1500? A. $1500 that I give for fur account for Fisch.

Q. And so you took the $3,000, and what else? A. Just them fifteen hundred dollars, and them fifteen hundred dollars went back to the trunk, at the end of the year; I guess it was in November.

Q. You took out $1500 out of the trunk during May? A. Yes.

Q. And you got $1500 from Fisch's fur account. What did you do with the $3,000? Is that what you said, or am I mistaken about it? A. You are mistaken about it.

Q. Well, you took $1500 out of the trunk. What did you do with that? A. I put it in furs.

Q. In furs? A. Yes.

Q. This is in May? A. This is in May.

Q. So you had a little over $2500 or about $3,000 in there during the month of May till you took out $1,500; that's true? A. Well, I cannot say exactly the amount.

Q. I don't want exactly the amount, within $500. A. And I wouldn't say any amount.

Q. Well, you took out $1,500 during the month of May? A. Yes.

Q. That left you on the 1st of June with 1,500, with 1,000 to 1,500, is that right in the trunk on the 1st of June? A. That is about right.

Q. About right. So that at the beginning of March you had between 2,500 and $3,000 in the trunk? A. (No answer.)

Q. Well, 1,500 and 1,500 are three thousand? A. That is about right.

Q. Between 2,500 and $3,000 in that trunk on the 1st day of May, 1932? A. Yes.

Q. How much money did you have in the trunk on the 2nd day of April, 1932? A. 4,300.

Q. 4,300? A. (Witness nods head.)

Q. So you took out between 1,300 and 1,800 from the 5th day of April, from the 2nd day of April, 1932. A. Oh, I can't answer that question exactly how you want it. I took out— I took some for the radio, I put some in the bank.

Q. You didn't take the radio money out in April, did you? A. No, I—I guess I bought it in April or May.

Q. Well, you bought it in May, didn't you? A. Well, either in April or May I bought the radio.

Q. The $1,500 you took out for furs, where did you deposit that? A. I give it to Fisch.

Q. You don't know where that was deposited? A. Fisch was buying fur for it.

Q. You remember yesterday you read one of the ransom notes for me, starting off as follows: "The baby would be back long ago. You would not get any result from the police, because this kidnaping—" Now the next part is the part I want to direct your particular attention to— "because this kidnaping was planned for a year already." Do you remember that? Now, let me read another one to you—what number was that —S-23,—

Q. Then in S-55, "This kidnaping was prepared for a year already," do you hear that: "Was prepared for a year already," in S-55 and "was planned for a year already" in S-23. You have heard those two expressions in those notes: "Was planned for a year already," "Was prepared for a year already," and your statement a while ago

about your trip to Germany, "Oh, that is planned for a year already." A. Yes.

Q. That is your method of speech, isn't it? A. Well, I guess it is correct.

Q. Yes. A. How can I say it otherwise?

Q. Well, you can say "Planned for more than a year," "Planned already for a year," "Planned a year ago." A. How you would say.

Mr. Reilly: May I suggest there is a statement by you, you have read from two portions of kidnaping letters and then you read from a portion of a statement off testimony of the witness yesterday and today that he intended to go to Europe and that that trip to Europe was planned and then the Attorney General sits down without him asking any questions about it.

He wants to leave the inference with the jury, unjustly and improperly, that because a man said he was going to Germany a year before he was arrested, that that fits in and gibes with what is in two kidnaping notes, so that the jury might receive the inference as a circumstantial fact that from those three this defendant is guilty of a crime.

The Court: Well, what is there improper in the examination?

Mr. Reilly: There wasn't any question asked. He says, "Did you read me the part of this yesterday?" And "Did you read me part of that yesterday?" And did you say that yesterday?"

Then he sits down, doesn't ask the witness any question about it—

Mr. Wilentz: I think counsel has forgotten it.

Mr. Reilly: No, I haven't forgotten it.

The Court: He asked three questions; he asked three questions.

Mr. Reilly: Then I submit, sir, he should be permitted and asked to follow it up with a question to the witness as to whether or not there is any connections between the two kidnap notes and his statement that he was going to Europe, and not suddenly drop this hot, in the lap of the jury, with the idea that because a man said he was going to Germany that fits in with the kidnap note.

The Court: Well, you see, the cross examiner must put his questions. They can't be put according to the idea of his adversary.

Mr. Reilly: But—

The Court: Now he has asked three questions. I don't recall whether they were answered.

Mr. Wilentz: I think so. I asked him whether or not did he notice the similarity, was that his style of expressing himself, and he then asked me in answer to that, "How would you say it?" And I attempted to tell him how I would say it.

Mr. Reilly: Now I say that that is no answer to the question. I recall very definitely as to the suggestion whether or not counsel should ask the question that in my examination of a certain witness the Attorney General arose and asked whether or not the Court would not direct me to incorporate into a certain question his idea so that we would keep on the subject and I did it. Now I say here when the witness is asked by the Attorney General a question about an inference that he is seeking now to leave in the lap of the jury that it should be followed by a question which would clear the matter up while we are on the subject.

Mr. Wilentz: May we read the record if it is of some import?

The Court: I think that the record had better be read.

Mr. Wilentz: May I proceed while we are waiting and we will come back to that and read the question?

Q. Mr. Witness, when you were arrested and you were asked why it was that you had not turned in this gold to the Federal Reserve Bank did you say "I was afraid they would hook me up if I turned it in"? A. I can't remember that.

Q. Will you say that you didn't say it? A. I said I cannot remember that.

Q. You won't say that you didn't say it, will you? A. I answered my question.

Q. You just don't remember? A. (No answer.)

Q. Well, you weren't afraid they would hook you up, were you? A. (No answer.)

Q. You weren't afraid they would hook you up, were you? A. No.

Q. That is not the reason you didn't turn them into the Federal Reserve Bank? A. Well, the big amount, there was so many questions and I am illegal in this country and I probably would have trouble and beside it wasn't my money so that was the reason I didn't want it in any bank.

Q. You didn't want to take it down because it wasn't your money? A. It wasn't my money and besides there was so many questions, would be so many questions and I am illegal in this country.

Q. You are in this country illegally? A. Yes.

Q. And you were afraid of it? A. Yes.

Q. That is the excuse you gave to the police for— That is the reason you attributed to the police for having changed the accounts into your wife's name because you were illegally in this country? A. That is not the reason.

Q. Didn't you tell the authorities when you were first arrested that you didn't take the money to the Federal Reserve Bank because you didn't know where there was a Federal Reserve Bank? A. I couldn't remember right away— I know a Federal Reserve Bank.

Q. Oh, you couldn't remember at the time so you told them the reason you didn't take the money to the Federal Reserve Bank was because you didn't know where there was a Federal Reserve Bank. A. I know there is a Federal Reserve Bank, but I couldn't think so fast.

Q. And you couldn't think so fast, so you told the authorities that you didn't know where there was a Federal Reserve Bank, isn't that right? A. I don't know if I said it like that.

Q. Didn't you tell the authorities when you were arrested that you did not know where there

was a Federal Reserve Bank? A. I can't remember my answer I give.

Q. Will you say that you didn't say it to the authorities? A. I guess I answered my question.

Q. Will you say that you didn't say it to the authorities? A. I said something about it, but I can't remember what I said.

Q. Yes, you said something about not knowing where there was a Federal Reserve Bank? A. Yes.

Q. And all the time when you were saying that, you knew very well that you had been into a Federal Reserve Bank and had deposited gold? A. Later on, I was thinking about Federal Reserve Bank, must be on Wall Street, and I remember I was in.

Q. You remember then you were in? A. Yes.

Q. So you made a mistake the first time you told them that you didn't know where there was a Federal Reserve Bank? A. Well, I know there is.

Q. Then you corrected it? A. I know there is a Federal Reserve Bank, but I couldn't remember first the location.

Q. But you made a mistake first when you told them that you didn't know where there was a Federal Reserve Bank, then you remembered that you did know, is that it? A. Yes.

Q. Your answer is yes, isn't it? A. Yes.

Mr. Wilentz: The testimony is here.

The Court: The secretary will read it, the reporter will read it.

(The reporter read as follows:

"Q. You remember yesterday you read one of the ransom notes for me, starting off as follows:

'The baby would be back long ago. You would not get any result from the police, because this kidnaping—' Now, the next part is the part I want to direct your particular attention to—'because this kidnaping was planned for a year already.' Do you remember that? Now, let me read another one to you—what number was that —S-23—

"Q. Then in S-55, 'This kidnaping was prepared for a year already,' do you hear that: 'Was prepared for a year already,' in S-55 and 'was planned for a year already,' in S-23. You have heard those two expressions in those notes: 'Was planned for a year already;' 'Was prepared for a year already,' and your statement a while ago about your trip to Germany, 'Oh, that is planned for a year already.' A. Yes.

"Q. That is your method of speech, isn't it? A. Well, I guess it is correct.")

The Court: Now, what is wrong about that?

Mr. Reilly: There is more of it.

Mr. Wilentz: That was the question.

Mr. Reilly: Nowhere is the question from the witness to the Attorney General.

The Reporter (reading):

"Q. Yes. A. How can I say it otherwise?

"Q. Well, you can say 'Planned for more than a year,' 'planned already for a year,' 'Planned a year ago.' A. How you would say."

Then Mr. Reilly objects.

Mr. Reilly: Yes. Now that is what I object to. It is rather confused.

The Court: Well, if this matter is left, as you seem to think, in a state of confusion, you can clear it up on your re-direct examination.

Mr. Reilly: I wanted, if possible—of course it is past now, the moment is past, but at that particular minute if it was possible to clear it up so that the mind of the jury would be focussed upon it, it would have been better, rather than to take it up on re-direct. Of course, then the effect may be lost. However, I will take it up.

Mr. Wilentz: Not if Mr. Reilly takes it up, the effect won't be lost.

Mr. Reilly: General, you are always so kind.

By Mr. Wilentz:

Q. So that—now this is important and I want you to answer the question, please, with any explanation you want to give—when you were asked about the Federal Reserve Bank or banks after your arrest, you stated at that time that you did not know where there were any Federal Reserve Banks, and you tell us now you learned that you had known where they were: is that correct? A. Yes, later I remember I was in Federal Reserve Bank.

Q. Yes. Didn't the authorities say to you,

"Why didn't you take this gold to a Federal Reserve Bank?" And you said, "Because I didn't know where there was a Federal Reserve Bank." A. Which gold?

Q. The money in the garage, the gold in the garage, the gold bills, the goldbacks, the Fisch money. A. I can't remember they put that question to me.

Q. You don't remember? A. And if I remember, I guess, well he put the question on me, "Why didn't you put the money in the bank?" I guess that is the question, like that, and that is what I said: "I am afraid of it."

Q. You are afraid of it? A. Afraid of it.

Q. Why were you afraid of it? A. Because there was them gold certificates, was called in for quite a year, and then I have to explain it, and then I am unlegal in this country and there would be a lot of questions, and, third, this money doesn't belong to me at all.

Q. When did you get the $120 in gold coin that you had in your home on the date that you were arrested? A. When I turned in the gold coins, this was, I got in the safe deposit box $620, und I put $500, I put in the bank and the $120 I kept it home, I took home.

Q. Well, you knew that the $120 that you kept at home, you knew it was just as bad or just as unlawful or just as illegal to have $120 in gold as it was to have $14,000 in gold—you knew that, didn't you? A. No. When I read the statement from Roosevelt, I guess he said something, every person can have hundred dollars in gold and there wouldn't be any objection.

Q. So you kept $120? A. And I kept $120 in gold.

Q. I see. Now this money you wrapped up when you found it, the money in the garage,

you wrapped it up yourself in thousand dollar packages? A. Yes.

Q. You put $2,000 away in case of trouble, away from the rest of the money, is that right? A. Yes.

Q. $2,000. Where did you put that? A. 2,000?

Q. Yes. A. It was, it was laying on the shelf.

Q. Well, you put it away somewhere, you hid it somewhere? A. Yes, and there was a board in front of the shelf in the garage.

Q. That wasn't in the oil can? A. No, it was not.

Q. That wasn't in the board with the holes in it. A. No.

Q. That was a different board. A. It was a different board.

Q. $2,000 about? A. Yes.

Q. Now, when you counted the money and you put it into thousand dollar rolls, did it come out even, an even thousand or did you have one package or one roll that didn't have an even thousand dollars? A. I can't remember that, but it is possible I made a mistake on counting.

Q. You put up a certain number of thousand dollar packages? A. Yes.

Q. Is that what you call them, packages or rolls? A. Packages.

Q. Packages. Every time you counted a thousand dollars worth of this money you put it together and wrapped it up. A. Yes.

Q. With paper over it. A. Yes.

Q. Is that right, newspaper? A. Newspaper.

Q. Then another thousand with paper on it, and then another thousand— A. Yes.

Q. —and those packages had a thousand dollars a piece, unless you made a mistake in counting it. A. Yes.

Q. Now you finally got to twelve, then you got

to thirteen, then you got to fourteen. Did you get to fifteen? A. No, I did not.

Q. What did you do with the odd money? A. I guess one of them two packages you find it wasn't quite thousand dollars.

Q. Sir? A. One of them two packages on shelf I guess it was two thousand dollars quite.

Q. It wasn't quite? A. No.

Q. Why not? A. I guess there was something missing.

Q. Why was it something missing? A. It was the last money I counted.

Q. So the last two packages you had less than a thousand dollars in each: is that right? A. Yes.

Q. And you wrapped that up? A. Yes.

Q. And you put that where, those last two packages? A. Yes.

Q. Where did you put them, the last two? A. In the shelf.

Q. In the shelf? A. Yes.

Q. And that is the part that you say was the $2,000? A. Yes.

Q. All the rest you are quite sure the bundles or packages were a thousand dollars apiece? A. Could make a mistake.

Q. Yes, but except for a possible mistake that you made in addition or in counting, it was supposed to be a thousand dollars a piece? A. Yes, and except from the piece of wood.

Q. What did you put in the wood? A. I put, this was the money I put in.

Q. What did you put in there? A. The money.

Q. The first money? A. Yes.

Q. So you didn't count the first $1,000 and wrap it up in a package, did you? A. Not the first thousand I put in the wood, not a thousand, it is seven or eight hundred; I cannot remember.

Q. You didn't wrap that up at all? A. No.

Q. You didn't wrap it up at all? A. No.
Q. You just put that in in cold cash? A. Yes.
Q. And you put it in the board? A. Yes.
Q. That is the board with the five holes? A. Yes.
Q. Didn't count the money you put in that board? A. I counted, yes.
Q. How much did you count? A. I can't remember it was 700 or 800, either one of them.
Q. Well, once you counted, once you put it in the board holes, once you nailed it up to the wall backwards so that you couldn't see the money, you never disturbed it again, did you? A. No.
Q. Now, if one roll had $190 and another had $180, or whatever it is, that is the way you put it in there? A. You see, it was the first was trial. I got it in one bundle and I count this bundle and I guess it was 700 or 800, and I makes holes. I didn't count them single rolls.
Q. In July 1931, how much money did you have in this trunk? You were up to $4,000 or $4,300, in there somewhere,—is that the time you had $4,300? A. In July?
Q. That's the time you went to California. Let me help you out a little. A. I can't remember any more.
Q. Well, you had a lot of money there? A. Yes.
Q. In the trunk. Took a trip to California? A. Yes.
Q. Did you leave it in the trunk? A. No.
Q. What did you do with it? A. I put it in a smaller satchel. I give it to in Brooklyn, I put a small satchel in my uncle's house and another furniture went to the storage room.
Q. You took the $4,300, put it in a satchel and gave it to an uncle of yours? A. Yes.
Q. In Brooklyn? A. Yes.
Q. What is your uncle's name? A. Leifuss.

He didn't know there was money in it. I didn't tell him about it. I closed the satchel.

Q. Go ahead. Tell us about it. A. There were a couple of things me didn't put in the storage room, and this was I give for my wife's uncle in Brooklyn and that is where I put my money in, too.

Q. What is his name? A. Cleifus.

Q. Cleifus? A. Yes.

Q. Where does he live now? A. Gee, I know the house, but I can't remember—

Q. It doesn't matter. You gave him a satchel. You put everything else in storage? A. The other furniture was all in storage.

Q. Other furniture in storage and your hand grips, some things, you left with him. Did you leave anything else with him? A. Yeah, there was a few things besides it.

Q. Did you tell him it was money? A. No, the satchel was locked.

Q. Did you tell him there was money in it? A. No, did not.

Q. Did you know there was money in it? A. Because I put it in.

Q. Yes. How much did you put in? A. It was near $4,000.

Q. Is that all the money you had at the time? A. Yes.

Q. What did you do about the money for your trip? A. Money from the trip?

Q. Well, you needed money to take the trip. A. I took this out from the bank.

Q. Took it out from the bank? A. Yes.

Q. You didn't take it out of that money, did you? A. No.

Q. How long did you leave that money with your uncle in this satchel? A. Right when we came back I took it back again.

Q. You didn't put that in the garage, did you? A. I put it back in the trunk again.

Q. But you never put that money in the garage while you were away? A. No, because I didn't have any garage.

Q. You didn't put it in the bank? A. No.

Q. You didn't put it—did you have a deposit box at the time, July, 1931? A. No.

Q. Did you have a brokerage account? A. Yes.

Q. You didn't give it to the broker. A. Didn't like it—

Q. Sir? A. I didn't like it to put it in the stock market at this time, because I couldn't—

Q. No, you didn't like to put it in the bank in 1931. A. Otherwise my wife would know it.

Q. Otherwise your wife would know it? A. Yes.

Q. Well, your wife didn't know about the Mount Vernon account, did she? A. I am not quite sure; I don't—I don't know if she knows about it or not.

Q. How would your wife know if you opened a bank account somewhere in New York under your own name or under one of the other, or under the name that you used? A. I never used any other name.

Q. Well, under your name then. A. Well, I usually tell her.

Q. You usually tell her? A. Tell her, if I open it.

Q. Well, if you didn't tell her she wouldn't know even though you did open an account in a bank, would she? A. She would know.

Q. If you didn't tell her? A. It is probable sometimes she finds a book at home, a bank book.

Q. Well, you could hide the book in that trunk, couldn't you, where you were hiding the money? A. Well, I kept the book in the writing table.

Q. Wouldn't it be safer to hide a book in the trunk than it would be to hide money? A. No, because it isn't actual money, the book.

Q. Sir? A. The book isn't actual money.

Q. The book is not actually money? A. No.

Q. If you left the book in the trunk and somebody took it, you wouldn't lose the money, would you? A. No.

Q. But if you left the money in the trunk and somebody took it, that would be gone then, wouldn't it? A. It would be gone, but I don't think that's any possibility, to take the trunk out of it.

Q. Did your wife have the combination to the strong box you had in the house, that tin box, the money box? A. Yes.

Q. That is where you kept the gold coins, wasn't it? A. Yes.

Q. You didn't keep any money, anything else in there, did you? A. No.

Q. And you kept that tin box there as a money box, didn't you? A. I bought this tin box I guess '33.

Q. '33? A. Yes.

Q. When the police came to your home you didn't have a dollar in cash in that trunk, did you? A. No, because this was gone long ago.

Q. What is that? A. It was gone long ago.

Q. So that you didn't always keep money in that trunk for this purpose that you talked about? A. That's what I said. The money, I took the last money out when I took the gold certificates out. It was in the spring time '33. Since then there was no money there.

Q. And there actually wasn't a dollar of money in the house in that trunk, was there? A. No.

Q. Now you heard Mr. Frank of the Federal

Government testify to the amount of money that went into these accounts, did you not? A. Yes.

Q. Do you remember his testimony, total $16,942.75, did you go over the brokerage figures to see if that was the amount of cash that went into that account? A. No, I didn't go over it so closely.

Q. Well, that sounds correct, doesn't it? A. It is about right.

Q. And the testimony also with reference to the $9,000 that went into the bank, that is about correct, isn't it? A. Well, he figured that in his own way.

Q. Well, is it a fact that there was $9,000 in cash approximately that was deposited whether it was your moneys or Fisch's or whose it was? A. No.

Q. There wasn't $9,000 deposited in cash in the banks? A. No, because that is this way: If he got $2,000 in the bank, for instance, then next week he will take a thousand dollars out and put this thousand dollars to work, buy furs or buy stocks, or by the next opportunity I put it back in the bank.

Q. What do you mean, put it to work? A. In stock or in furs and then the same money runs back in the same channel, it is still the same money, is it? And there is no new money coming in at all.

Q. How much did Fisch lose in the stock accounts? A. Stock account, Fisch lose, I figure out close to $15,000.

Q. How much did he put in? A. About the same amount.

Q. So that he put in about $15,000 and he lost about the same amount? A. Yes, 1933 in November he was even.

Q. So that— A. He lost—

Q. So that— A. He lost—

Q. So he was finally even too? A. He was.

Q. He put in about fifteen and he lost about fifteen? A. Yes; it was different, I can't remember any more if it was a little bit less or a little bit more.

Q. How much did you put in? A. Very little.

Q. How much? A. 50 shares was—

Q. How much cash did you put in, please? A. For which day?

Q. Then your brokerage accounts from April 2nd, 1932? A. I guess around 2,000.

Q. Two thousand dollars? A. 2,000 or 1,500.

Q. 2,000 or 1,500? A. Yes.

Q. And how much profit do you say that you earned from April 2nd, 1932, until the date of your arrest? A. It was $9,500.

Q. Profit? A. Yes. I never took any money out from my stock account for living, I took out money from the fur account, and if you follow closely my books you will find—

Q. You didn't take money out of your—

Mr. Reilly: May he answer it, General? You shut him off.

Mr. Wilentz: Go ahead. I thought he did answer it.

Mr. Reilly: No.

A. (continued) If you will follow my books, the time Mr. Fisch left for Europe, I always took, since dis time, my living expenses from the stock account, because there wasn't any more money coming in from fur account. He was away, and I guess you find it in the book too.

Q. You took some part of your living account from the ransom money, didn't you? A. I never

got any ransom money in my possession; I didn't know it—

Q. You spent some of the ransom money for your living expenses in September and in August 1934, didn't you? A. I didn't know that was ransom money.

Q. I didn't ask you if you know it, but you spent some of that money, you know it now, don't you? A. I spent twelve to fifteen in bills, yes.

Q. Yes, so you did take some? A. Yes, I did.

Q. You didn't take any living expenses out prior to that time, before 1933, you say?

Mr. Reilly: From what, General? From what do you mean?

Q. From your brokerage account, you said you took no money out for your living expenses, I think, since October 1933? A. I took very little. Sometimes there wasn't—Fisch didn't have any money, so I took some, a check, but very little.

Q. Then you did take some money out of your brokerage accounts for a living before November 1933? A. Amounts practical for nothing.

Q. Well, whatever it is, you are satisfied to stand by the books, aren't you, your books? A. Well, I can't remember so, right from the air.

Q. You asked me to follow the books. Are you willing to follow the books? A. Yes.

Q. Your books? A. Yes.

Q. Will you stand on the accounts in your books? A. I stay on it, yes.

Q. Will you stand on the fur accounts between you and Fisch in the books? A. No.

Q. Will you stand on the brokerage accounts in the books of you and Fisch? A. Yes.

Q. Will you stand on $2,000 as being the only

money that Fisch gave you up to July 1933, for brokerage? A. No.

Q. That is not true, is it? A. That is not.

Q. Not correct? A. That is not correct.

Q. So you won't stand on your books, will you? A. To a certain extent, yes.

Q. Yes, to a certain extent the testimony in the Bronx, is that right—is that correct? A. That's correct.

Q. To a certain extent the testimony before Sam Foley, is that correct? A. (No answer.)

Q. Is that correct?

Mr. Reilly: That wasn't testimony, General; it wasn't under oath, it was just questions.

Q. Questions and answers before Sam Foley; your answer is you only want to stand on them to a certain extent, is that right? A. Some of them I said I remember afterwards was a little bit different.

Q. Didn't you testify the other day that you only wanted to stand on the answers you gave to Mr. Foley to a certain extent, didn't you say so? A. Well, I correct my answer.

Q. Do you want to correct it now? A. No.

Q. No. But you so testified the other day, isn't that right? A. Yes.

Q. So that to a certain extent the testimony in the Bronx before Mr. Foley and now to a certain extent your own books— A. My own books doesn't show anything. I told you before, didn't I?

Q. The book shows $2,000 as being invested by Fisch up to July, 1933, isn't that right? A. And I explained them $2,000, didn't I?

Q. Yes, sir. A. Well—

Q. But is that correct, that is all he put up until July, 1933? A. No.

Q. Then why did you put it in there, $2,000, on account of Fisch and Hauptmann? A. I told you before. I said I will keep care of them $2,000 special.

Q. Not what you told me, by the book, you asked me to follow the book, didn't you? A. And that is standing in the book.

Mr. Wilentz: Where is that book?

Q. You want the jury to follow the book, don't you, your book? A. It can.

Q. Sir? A. It can. There is no objection to it.

Q. All right, sir. Now your book says that Fisch put in $2,000 on account of Hauptmann and Fisch in July, 1933. Isn't that right (showing book to witness)? What page is it, Mr. Frank? Do you know? "Isidor Fisch put over to account of Isidor and Richard $2103 July the 10th, 1933, to a 20 per cent basis"? A. Yes, and that—

Q. And that includes the $2,000 on these stocks which you have outlined here, which you bought for Fisch, isn't that right? A. You know my book better than I do, I guess. Listen. This date Mr. Fisch, I said to Mr. Fisch, "Give me $2,000 and I keep care of it, I pay stock and I sell stock how I think." And that's what I did.

Q. Yes, sir. A. When I get—

Q. You were his manager about the purchase and sale of stock, is that right? A. Please let me finish my explanation.

Q. I thought you did finish. A. No, sir, I did not.

Q. Yes, sir, you may finish, A. And then I keep care of them stock I bought for him what I thought is best.

Q. Yes. A. Now I made $103 on it and he wasn't satisfied, it was too little—
Q. Now please—

Mr. Reilly: Let him finish, please.

Mr. Wilentz: Just a minute. I am interested now in an answer about the book and the account.

Mr. Reilly: Well, he is trying to explain.

Mr. Wilentz: No, he is talking about a conversation with him.

The Witness: I am coming to it.

Mr. Wilentz: Now I think—I have permitted the conversation and it is not responsive, and I think I have the right under those circumstances either to stop him or move to strike it out.

Mr. Reilly: He is explaining the items in the book.

The Court: Well, he was doing something more than that I think.

Mr. Reilly: Of course he might have been putting in a few more words, but he was explaining that item.

Mr. Wilentz: If your Honor please, if your Honor will permit, when I am through with the account of the book, I am willing to sit here for an hour and listen to his ex-

planation and I won't object; but I want to find out about the entry in the book.

The Court: You may proceed.

Q. Will you find me in the book where you have an account of Fisch giving you anything like $15,000? A. It is not special marked.

Q. Will you show me anything in your book in which Fisch is shown as putting in anything outside of that $2000; show me any notation in which you have Fisch putting up money. A. You wouldn't find it in this book.

Q. Will you find it in any one of these books? A. No, but I guess in Fisch, Fisch kept a book.

Q. I am talking about your books now. A. No, you wouldn't find it.

Q. All right. Let me have the book for a minute. So that you have got the stocks here that you purchased and sold, haven't you, all this reference being to S-258 so you have your book here of the stocks that you bought and sold in this book, have you not? A. In Fisch account includes only $2,000.

Q. Will you please answer the question? Does this book include the brokerage accounts including the stocks bought and sold? A. Yes.

Q. Does it include Fisch's brokerage account, bought and sold? A. It includes Fisch account but it isn't separate from my account.

Q. That is right. But it includes them. A. Includes them in my name.

Q. That's right. But the stocks purchased and the stocks sold are in this book S-258, aren't they? A. Yes.

Q. And you have got an entry here of $2,103, Isidor Fisch, put over to the account of Isidor

and Richard, July 10, 1923, to 20 per cent basis. You have got that in there? A. Yes.

Q. But you haven't got another piece of evidence in this book or a writing that shows that Fisch put in another dollar, have you? A. No, I have not.

Q. And it is your book? A. Yes, it is my book.

Q. And it is your book? A. It is my book.

Q. The police didn't write it, did they? A. No.

Q. And I didn't write it? A. No, I did.

Q. Now, let's go over to the furs. Have you got an account of your fur transactions? A. I only keep the later part, from 1933.

Q. Well, you kept it finally, the later part, 1933. That is when most of the business was being done, isn't that so? A. Not familiar with fur.

Q. When did you do most of your fur business? A. I said I am not familiar mit furs.

Q. You are not familiar with furs? A. No, Fisch keeps care of this.

Q. You see, I am not familiar with the book either. You turn to the fur account. A. (Witness looks at book.)

Q. All right, sir. Thank you. Most of the stocks you bought were for Fisch, weren't they? A. Yes, specially in December '33. Everything was for Fisch.

Q. Fisch put in the most money. You only put in a couple of thousand dollars, maybe only $1500: isn't that right? A. Yes.

Q. No question about that? A. No question about it.

Q. You bought Wall Street papers, special papers, didn't you, with information about stocks? Isn't that so? A. Sometimes, yes.

Q. Well, you bought the Wall Street Forecast, didn't you? A. For a short period, yes.

Q. That costs money, doesn't it? I mean that is

not a three cent or a five cent paper? A. That is a ten cent paper.

Q. Did you pay $30 for it? A. Oh, that is a special forecast.

Q. Special forecast? A. Special forecast.

Q. Well, you spent sums like $30 for special bulletins on stocks, didn't you? A. Yes.

Q. Who did you charge that to, you or to Fisch? A. This was half and half.

Q. You charged it to yourself here, didn't you? A. Let me see.

Q. Yes. Right there on top: "Richard, for Wall Street Forecast, $30." A. Yop; I put it in.

Q. Yes, you put it in? A. I put it in. But it is charged for two, $15 for him and $15 for me, but I put it in.

Q. Now, you have turned over here to the fur account. It is Isidor Fisch and Richard Hauptmann, is that right? A. Yes.

Q. Have you got an account anywhere here as to the amount of profit that is coming to you? A. Mr. Fisch was keeping book about fur accounts.

Q. Nothing in there, nothing in there at all about the profit? A. There is something in there.

Q. Show me where there is some evidence of your getting any profit out of furs, any money, show me the items in here. How many are there? (Giving witness a book.)

Mr. Wilentz: May I have the letters to Fisch, the original, and will you give to Mr. Reilly and the defense gentleman the translation for the time being; just the Fisch letters, not all of it.

A. Yes, they are.

Q. Yes. Now, you have some account showing profit, haven't you? A. Yes.

Q. Of furs? A. Yes.

Q. All right. Now read off the profits that this book shows were made in furs? A. Yes, over here, 1,350.

Q. Well, that is not profit, is it? A. No.

Q. No. A. That is 500.

Q. $500? A. $500.

Q. Yes. All right, sir. A. $400.

Q. Yes. A. 457.50.

Q. Yes. A. 380.

Q. Yes.

Q. Yes. A. That's all that my book shows.

Q. That's all that your book shows? A. Yes.

Q. Now will you please let me have a piece of paper? Mr. Hauptmann, will you please take this paper over here and this pencil and I will read those figures to you: 500—will you look at this please—400, 475—No, 457.50; 457.50 and 380. A. (The witness writes as directed by examining counsel.)

Q. Now those are the figures you just gave me, aren't they, 500, 400, 457.50 and 380. A. That is right.

Q. And no more? A. Let me see.

Q. Yes. A. (The witness examined the book again.)

Q. You can take the book and look a little longer if you want. A. I want to explain it right away.

Q. I want the figures from the book and then you can explain all you want. A. That covers only the months.

Q. All right. Just put them down. A. Let's see it again, please.

Q. Yes, sir. What do you want to mark on there—all right.

The Court: Now, gentlemen, it is about recess time.

Mr. Wilentz: As soon as he totals it up, if your Honor please. Very good. Let's just mark this for identification.

The Witness: What is the answer of that?

Q. We will put it right in there so you can have it after lunch, $1737.50.

Mr. Reilly: Total before we leave?

Mr. Wilentz: Yes, I just gave it $1737.50.

A. That covers the profits for a month.
Q. Just a minute. Tell us that this afternoon.

Mr. Wilentz: Just a minute. Now after all, I am examining this witness and not defense counsel.

The Court: Is there any question pending?

Mr. Wilentz: No question pending.

The Court: If so, it may be answered after recess.

(Witness's total calculation marked S-270 for Identification.)

The Court: I want to impress upon the officers the necessity during the recess and when we convene again of strictly enforcing

the order that I gave to the effect that there was to be no standing in the court room, except the officers who are standing in the aisles for the purpose of keeping the aisles open. It is very difficult to satisfactorily do our work if we are to be confused by such disorder as naturally arises where people are standing in the court room. And there are other reasons equally important why it should not be permitted. So that I caution the officials to see to it that people are not allowed to stand in the court room this afternoon. Conditions here have been very much better and I appreciate the efforts of the officers. They have been very much better today, this morning, than they were on Friday last and yesterday.

While I think conditions may still be improved, and I want the officers to see to it that it is done.

Now, the prisoner may retire to the custody of the sheriff.

(The prisoner retires in the custody of the sheriff.)

The Court: The Court will now take a recess until 1:45 p. m.

(Whereupon at 12:37 p. m. a recess was taken until 1:45 p. m.)

AFTER RECESS.

(1:45 p. m.)

(The jury was polled and all jurors answered present.)

The Court: The defendant may resume the stand.

BRUNO RICHARD HAUPTMANN resumed the witness stand.

Cross Examination (continued) By Mr. Wilentz:

Q. My recollection is that you were about making an explanation of these fur profits, in which you stated, I think, or attempted to state, when I interrupted you, or attempted to interrupt you, that the profits which you gave, however, were just for one month. A. Yes.

Q. That is the explanation you wanted to give, isn't it? A. Yes.

Q. Now, what month was that? A. June or July.

Q. Well, I mean you could tell better if you looked at your own book, couldn't you? A. Certainly.

Q. All right, sir.

Mr. Wilentz: Have you got that exhibit, that piece of paper marked for identification? (Addressing reporter.)

A. It was everything in May.

Q. All right. Now just look at it and see if it is everything in May. A. I mean three lots that is so.

Q. That is May the 5th, 1933, isn't that right? A. Yes. Oh, there is one block.

Q. July 15th, 1933. So that is a different month, isn't it? A. That is a different month.

Q. It is not all in one month then, is it? A. No.

Q. Now, you have looked at this book and you

gave us what profit you found, didn't you? A. Yes, I did.

Q. Now I want to show you there is some more profit you have overlooked. Do you see this item here? A. Yes.

Q. Do you see $11,000? A. I see him.

Q. Did you lose money on that? A. No.

Q. Did you make any profit? A. Yes.

Q. Well, you forgot to add that. Do you want to add it now? A. No, the profit is laying in the furs.

Q. Yes. But it isn't in money then? A. It isn't in money then.

Q. Now how about the next one? Is that profit laying in furs too, 3500 here and sold for 4000? A. About this, that is in October, '33.

Q. Yes, October. A. Yes.

Q. Well, did you get any of that profit, that is what I want to know, in money. A. No, there was no money transaction in all this time. It was only a matter of bookkeeping, to clean the books.

Q. All right. Now will you look at that book and find any other profits that you got from furs in your dealings with Fisch at any time? A. No, because I wasn't suppose to keep them books in force. That was Mr. Fisch's business. I just happened to have a few of them transactions in here.

Q. You kept that book as an account of your transactions in stocks and furs, did you not? A. Furs, only little bit.

Q. And stocks altogether? A. And stock altogether.

Q. And the only record you have of any profits from furs in that book, the only record you have at all, is a profit of $1737.51: is that right? A. That is standing in the book.

Q. And all these moneys that we are talking

about that you were getting out for your living expenses and for everything else, from furs—
A. Yes.

Q. —they do not appear in this book? A. Not in this book.

Q. And it is your book and your handwriting?
A. Yes.

Q. All right. Now, sixteen or fifteen thousand dollars in cash went from Fisch to you into stocks? A. Yes.

Q. $15,000 went from you to the broker? A. Yes.

Q. The broker bought stock for you? A. Yes.

Q. You put it in the book? A. Yes.

Q. You put it in the book with your accounts, didn't you? A. Yes.

Q. Fisch's stocks and your stocks are all mixed together? A. All mixed together.

Q. Is there one line in your records that shows that Fisch gave you one dollar outside of $2,000?
A. No, dare is not.

Q. There isn't. Did you ever get a certificate of stock in the name of Isidor Fisch? A. All the certificates are of my name.

Q. Yes. Were you interested in the fur business at all? A. Well, I didn't understand it.

Q. No. A. I left—

Q. Do you know any legitimate fur dealer that you did business with? A. Yes, the address in here.

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

Q. Now, what did you say about Woodlawn Cemetery; did you say that you knew where the cemetery was before March, 1932? A. Yes, I did.

Q. Were you familiar with it? A. No.

Q. You were not familiar with it? A. No.

Q. How about St. Raymond's? A. St. Ray-

mond's, I hear the name St. Raymond's, I guess, when I get arrested, in the court room.

Q. That is the first you heard it? A. Yes.

Q. When you went to the Mt. Vernon Bank to make your deposits didn't you have to pass Woodlawn Cemetery? A. No, that is only about two blocks from my house.

Q. What is two blocks from your house? A. Two miles from my house, an entirely different direction.

Q. Did you work at the National Lumber Company which is near one of these cemeteries, at their branch? A. I get the contracts for the National Lumber Corporation.

Q. Sir? A. I get the contracts from National Lumber Corporation.

Q. Did you work at a lumber company whose plant was near that cemetery? A. Yes.

Q. Near what cemetery was it? A. Woodlawn.

Q. So you were familiar with Woodlawn Cemetery, were you not? A. Nothing at all.

Q. How close to the cemetery did you work? A. I will say it is about a mile away from it.

Q. A mile away? A. Yes. You can see Woodlawn Cemetery from quite a distance.

Q. You can or can't? A. You can.

Q. You can? A. Yes.

Q. So that you knew where it was, generally? A. Oh, yes. I guess everybody knows.

Q. Did you work at Marble Hill Avenue in February, 1928, in The Bronx? A. What is that again?

Q. Did you work at Marble Hill Avenue in The Bronx in February, 1928? A. '28?

Q. Yes. A. Oh, I have worked so many places it is impossible for me to remember.

Q. Well, didn't you have to pass the cemetery, the Woodlawn Cemetery, every day when you

went to work at the Marble Hill Avenue house? A. No. Now, let me think where Marble Hill Avenue are located.

Q. If you can't remember it, why we will pass to something else. A. No, I never passed Woodlawn Cemetery on my way to work; never.

Q. You worked at 204th Street and Bainbridge Avenue once, didn't you, Bainbridge Avenue and 204th Street? A. Yes.

Q. Let me see if I can find it on this map: Bainbridge. Do you know where it is, sir? A. Bainbridge? I have to look myself. The name is familiar, but I have worked so many places it is hard to remember.

Q. Here is Bainbridge Avenue and 204th Street. A. Yes.

Q. Now, how did you go from there to your home? A. Which year?

Q. Whenever you worked there. A. that depends when I got a car, when I use the car.

Q. Did you go up to Gun Hill Road and then over? A. No.

Q. How would you go? A. Webster Avenue.

Q. Webster Avenue? A. Yes.

Q. And then up to Gun Hill Road? A. Gun Hill Road, yes.

Q. Well, doesn't Gun Hill Road on Webster Avenue—isn't that right at the edge of Woodlawn Cemetery? A. I guess you can't even see Woodlawn Cemetery from Gun Hill Road.

Q. Just about a block away, isn't it? A. More as a block.

Q. More than a block? A. I guess you cannot see it.

Q. What did you say about St. Raymond's, didn't know anything about that, did you? A. I know that there is a cemetery in this direction, but I didn't know the name.

Q. Do you know there was a cemetery there, did you see it there on occasions? A. I passed this cemetery one time.

Q. Just one time? A. Yes.

Q. Did you work on Haviland Avenue job with Mr. Grizzle, Haviland Avenue job with Mr. Grizzle? A. Haviland Avenue?

Q. Yes. Do you remember it or don't you remember it? A. No, I remember it.

Q. You do? A. I guess that is right, Haviland Avenue.

Q. Is that right near St. Raymond's Cemetery? A. No, that is a far distance.

Q. It is a far distance? A. Yes.

Q. How far away is it? A. I don't know.

Q. From St. Raymond's. A. I don't know how far.

Q. You can't see St. Raymond's from there? A. No.

Q. Can't you look right across Westchester Creek into St. Raymond's Cemetery from the Haviland Avenue job that you worked on? A. I didn't see any cemetery at all over there.

Q. Did you visit Fred Brandt's place in 1927 when you were employed as a carpenter by Mr. Breslin? A. Yes. That is the time I passed, one time the cemetery, that is what I remember.

Q. Yes. That was in the vicinity of his home? A. And I have to pass by.

Q. Did you go to Yonkers often? A. Yonkers?

Q. Yes. A. I was working in Yonkers.

Q. And when you were working in Yonkers did you go from your home at 222nd Street? A. No. When I was working Yonkers I left on Needham Avenue—well, it is not far from there.

Q. Not far from there. And did you pass St. Raymond's Cemetery on your way to Yonkers? A. No. You are mixing up with Woodlawn.

Q. What, sir? A. You are mixed up with Woodlawn Cemetery.

Q. Then you passed Woodlawn Cemetery? A. No, not Woodlawn Cemetery either.

Q. Now, you say I am mixed up in my cemeteries. When you went to Yonkers I said you passed St. Raymond's Cemetery and you told me I am mixed up in my cemeteries. Do you mean by that you didn't pass St. Raymond's but that you passed Woodlawn? A. I didn't pass any cemeteries.

Q. What did you mean when you said I was mixed up? A. This cemetery of St. Raymond's Cemetery, this location is entirely different direction.

Q. That is right. The Woodlawn Cemetery, that you pass when you go to Yonkers, isn't it? A. No, I didn't pass it.

Q. You didn't pass it? A. No.

Q. Whenever you got away from Yonkers you got away from that cemetery? A. I don't have to go to that.

Q. How did you go? Tell us the course that you took. A. To Yonkers, well, I worked, I guess it was in '29—that is the time I worked over there.

Q. Well, how did you get there? That's what I ask you. How did you get from your home? A. Well, mostly I was driving mit the car mit friends.

Q. How? What road would you start on? You were living on 222nd Street? A. Yes.

Q. All right, which way would you go? A. We went up White Plains Road.

Q. Yes. A. I don't know how far.

Q. Yes. A. You wouldn't mind to give me the stick?

Q. No, go ahead (handing pointer to the wit-

ness). A. That's White Plains Road here (indicating).

Q. Yes, sir. A. And that's my house (indicating).

Q. Yes, sir. You would drive along East 222nd Street in a westerly direction until you got to White Plains Road? A. Yes. Over here the carpenter was living (indicating).

Q. Yes. A. I went to his house, took out his car.

Q. And you— A. And I go over here and follow all this, White Plains Avenue, all the way up about as far as that (indicating); then we went over to Yonkers.

Q. And all the time you did that, once you left White Plains Road, all the time you did that you were a couple of blocks away from Woodlawn Cemetery; first on the side and then on— A. That's quite a distance over there.

Q. But I mean White Plains Road that is about —well, a few blocks away from Woodlawn Cemetery, isn't it? A. Yes, but there is no connecting road between.

Q. You never really drove along Woodlawn Cemetery did you, in front of it? A. Oh, I passed by, sure.

Q. Did you ever ride in front of it on Jerome Avenue? A. No, I can't remember.

Q. You don't ever remember driving in front of Woodlawn Cemetery along Jerome Avenue? A. No.

Q. You never drove along Woodlawn Cemetery on East 233rd Street, did you? A. It is possible.

Q. But you don't remember. A. I can't remember now, but it is possible I was driving over there.

Q. And St. Raymond's Cemetery you never remember driving along East Tremont Street, did

you? A. No, I always used Eastern Boulevard.

Q. And not—well, Eastern Boulevard is in the vicinity of the cemetery, it is near there, isn't it? A. I didn't see any cemetery at all.

Q. Well, you see Eastern Boulevard is right here, don't you (indicating)? A. No.

Q. Isn't that Eastern Boulevard? A. You won't mind giving me this stick? (Mr. Wilentz lets witness take pointer.)

Q. It says so on there. A. I mean Southern Boulevard here.

Q. Southern Boulevard? A. No.

Q. Well, it is Eastern Boulevard, but it is way up there, you mean that part of it? A. That part of it here.

Q. A good distance away? A. And follow over here.

Q. Yes, sir. A. There was always follow from this corner the shore line from Throgg's Neck, but never came in this neighborhood.

Q. All right, sir. So that when you did come down Eastern Boulevard you always drove away from St. Raymond's Cemetery and never passed down past it? A. I—no, I never passed it.

Q. Never passed it? A. No.

Q. When you would get at this corner here—can I mark it "Y", is that all right, any objection? A. It is all right with me.

Q. When you got to the point "Y", why, that is when you drove away, is that it? You drove off Eastern Parkway and onto that road that leads some other place? A. Yes, because I have got nothing to do down there.

Q. Yes, certainly. So you never drove past St. Raymond's Cemetery either on East Tremont Avenue or on Eastern Boulevard, on the end near— A. No.

Q. Never did? A. No, I am positively sure about it.

Q. How did you drive to Mueller's house from your house? A. To Mueller's?

Q. Yes. A. I was, there is two ways, you mean Marion Avenue; I guess sometimes I went through the Bronx Park, Mosholu Parkway.

Q. Which parkway? A. Mosholu Parkway, and there is a cut right through Marion Avenue.

Q. Yes. What would be the other way? A. And another way, one block downtown from the house where Mr. Mueller lives, I cut through the Webster Avenue and follow Webster Avenue to Gun Hill Road, and sometimes Gun Hill Road and White Plains Avenue, and sometimes Boston Road,—that is just how I feel.

Q. How far away from Dr. Condon's home did Mr. Mueller live at any time since 1932? A. I don't know where Mr. Condon lives.

Q. What street did Mueller live on? A. Marion Avenue.

Q. How far is Marion Avenue from Decatur Avenue? A. That is only one block, but Mr. Mueller moved in, I guess, about only one year ago.

Q. Yes. A. Yes.

Q. That is about a year ago, a year ago Mr. Mueller lived about a block on the first block paralleling Decatur Avenue, is that right? A. He is still living over there yet.

Q. He is still living there? A. Yes.

Q. And Dr. Condon lived then and still lives at Decatur Avenue, so far as you know? A. Yes.

Q. Were you familiar at all with the section of the Bronx where Dr. Condon lived at that time? A. Well—

Q. March and April, 1932. A. Not particularly around there.

Q. Well, you knew the section, didn't you? A. I probably knew in the Bronx—

Q. You knew East Fordham Road, didn't you? A. Fordham Road, oh, yes.

Q. You knew Webster Avenue? A. Webster Avenue everybody knew.

Q. You knew Gun Hill Road? A. Yes.

Q. Webster Avenue paralleled Decatur Avenue that is one block away from each other, isn't that so? A. I find that out later.

Q. Yes, of course you didn't know it in March or April, 1932? A. I did not.

Q. But you found out later that you had been traveling about a block away from Decatur Avenue every time you drove down Webster Avenue? A. Yes.

Q. Yes. A. But I never have to cross Decatur Avenue.

Q. You never were on Decatur Avenue, were you? A. No, sir; no, sir, not in this time.

Q. Well, at any time. A. When I was finish the house for Mr. Miller—

Q. But before that time, before March the 1st, 1932, you had never been on Decatur Avenue in The Bronx? A. No.

Q. And you had never been in St. Raymond's Cemetery? A. Oh—

Q. You had never been in the front or on the side of St. Raymond's Cemetery? A. I passed by.

Q. Just on one of those roads, off roads, isn't that so? A. I passed by mit the streetcar in 1927 or sometimes.

Q. Right in front of the cemetery? A. That is in front of the cemetery.

Q. St. Raymond's? A. Saint—well, I didn't know the name.

Q. You didn't know the name? A. I know now the name.

Q. And how about Woodlawn? Did you ever pass in front of Woodlawn Cemetery? A. Well, I say yes, passed by. It is not far from my home.

Q. Now, you recognize this board again that we talked about yesterday, do you not? A. Yes, I do.

Q. You know now, don't you, that the address on this board and the telephone number are the address and telephone number of Dr. Condon as of March and April and May, 1932? A. Yes, you told me so.

Q. Yes. You have heard it in court, haven't you? A. Yes.

Q. You heard the telephone man talk about it too, didn't you? A. Well, I was when telephone man was here.

Q. You heard Inspector Bruckman and the carpenters from New York testify that they took this board from your home? A. That is what they said.

Q. Yes. Can you now give this Court and jury any explanation why this number of Dr. Condon and why this address of Dr. Condon was on this board, 206—204, which came from your rooms? A. I give you the answer yesterday already.

Q. You have no better answer? A. No.

Q. All right, sir. Now, I want you to take a look at these letters and tell me whether or not these are letters which you wrote to the Fisch family in Germany. Is that your handwriting? A. Yes, my handwriting.

Q. Turn it over to the other page, I think the writing is on both pages. Is the other side your handwriting? A. Yes, all my handwriting.

Q. Is the next page your handwriting? A. Yes.

Q. The page on this side? A. Yes.

Q. The third page yours? A. Yes.

Q. The other side? A. Yes.

Q. The next page? A. Wait a minute.

Q. Yes, sir. Well, it is your handwriting? There is your signature there, isn't it? A. Yes, sir.

Q. All right; and the opposite page. Is that your handwriting? A. Yes.

Q. How about the last page? A. My handwriting too.

Q. And the other side: is that your handwriting? A. Yes.

Q. All right; will you let me have it? A. Now, just a second, I want to—

Q. What do you want to do: do you want to read them? A. No. Nobody could understand it.

Q. You wouldn't want to read it? A. No, no.

Q. What do you want to do? A. This is the letter—I think if this is the real letter there was a copy in my desk; I keep the record from the letters to Fisch brother, and I guess this is the first letter, but he was little bit difference.

Q. Are these papers your handwriting? A. Yes, they are.

Q. But whether or not they are actual letters that you sent to Fisch's family you don't know now? A. No, I guess it was little bit difference.

Q. Little bit different, but they are your handwriting and your writing? A. They are.

Q. Now, I notice throughout these handwritings we are referring to—they are marked Exhibit what for Identification?

The Reporter: S-271.

Q. I notice that throughout these papers there are underlined certain words with either red or some colored crayon or ink or something. What is it? A. That's colored pencil.

Q. Colored pencil? A. Yes.

Q. Those colored pencil marks are yours

aren't they? I mean you did that; you made those colored pencil marks? A. Certainly not.

Q. You didn't underline them? A. I underlined them?

Q. Well, I don't know. I am trying to find out. Did you or didn't you? A. No.

Q. So that the writing is yours but the colored pencil marks aren't. That is what I mean? A. No, no.

Q. All right. Now throughout these papers, wherever there is a colored pencil mark underneath it that is not yours. Now is there anything else on here that isn't yours? That is what I want to know. A. Oh, a pencil mark on some—let me see it.

Q. (Examining counsel handed papers to the witness.) The shorthand at the bottom on the last page— A. There was something else. This one doesn't belong to me (indicating).

Q. Wait a minute now. Take a look at it. Isn't that yours? A. No, it is not mine.

Q. New York, 1279 East 222nd Street is not yours? A. No.

Q. Alongside of your signature? A. It is not my one.

Q. All right. Cross it out, please? A. (The witness complied.)

Q. Is there anything else on there which isn't yours? A. Besides there was "New York"—there was a hyphen between New York, too, but I did put it on.

Q. Well, you just crossed it off? A. I crossed it off, too, but I shouldn't do it.

Q. All right. Now tell me if there is anything else in there.

The Court: What did he say?

Mr. Wilentz: He crossed something off but he shouldn't have, he thought.

A. I guess that is all.

Q. Now let me see if I have them in proper order. This part here isn't yours, is it? A. No. That is shorthand. I can't read it.

Q. Then I will cross it off. Is this all one letter, whether it was left at your home or whether it was mailed, or are there two? A. That's what I say; that's about the copy from the first letter.

Q. Well, is that No. 1—is that your No. 1? A. Yes.

Q. All right. Then that's page No. 1 of something. Now here, see if that connects with No. 2. Is that page No. 2? A. That's correct.

Q. All right. Then we will mark that next. Then is this 3 yours? A. Yes.

Q. And that goes along that way then, doesn't it? And then finally No. 4, signed Richard Hauptmann? A. Yes.

Q. That's yours. That is next, isn't it? A. Yes.

Q. And then you also added this (indicating). A. Yah.

Q. To the same letter after you signed it, isn't that right? A. Yah.

Q. So that is one letter, isn't it? A. Yah, that is one letter.

Q. Do you remember whether you mailed that letter? A. I mailed it.

Q. You mailed it? A. Yes.

Q. And this letter which is S- what?

The Reporter: S-271 for Identification.

Q. —S-271 for Identification is a letter which you mailed to the Fisch family in Germany. A.

Yes, it is about the same, there is not much difference, some of dem I left out.

Q. I see. A. I—I guess I left out them $2,000.

Q. Well, I will try to find the other one. A. Some of them.

Q. I will try to find the other one for you.

Mr. Wilentz: I offer this in evidence and we will give you a translation of it.

Mr. Pope: We object to it.

Mr. Wilentz: He objects to it.

Mr. Pope: If your Honor please, we object to the introduction of this letter for several reasons. In the first place, the evidence is that this doesn't even purport to be a true and correct copy of the letter which the witness wrote to Mr. Fisch in Germany.

That it is only a copy of parts of the letter, some things, and other things in the letter were left out. We also object to it because the letter shows upon its face that it has been marked up, has been marked in various places with colored lead pencil; words in the letter have been underscored, probably for the purpose of emphasis.

We respectfully insist that any bit of writing, letter or otherwise, that is intended to be submitted to a jury for their consideration should be submitted to them in its original and in its unaltered condition, and that it is highly improper and prejudicial for anyone other than the author of the writing himself to underscore or in any other way or manner emphasize or attempt

to point out or to give to the letter meanings or emphasis upon any particular matter in the letter which the author of the letter did not himself intend to emphasize.

That it is not in the same condition that it was when it came into the possession of the State.

Finally, we object because it is incompetant, irrelevant and immaterial and has no bearing upon the issues being tried by this Court.

The Court: What have you to say about it, Mr. Wilentz?

Mr. Wilentz: If your Honor please, taking the last objection first that these letters have no bearing or are not material may I say to your Honor that we hope by these letters to attack the credibility of this witness about the very matters which he and the defense think are material and regarding which he has testified on direct and also on cross in this case? They are his writings admittedly. They are to the family of the man who he says supplied the money, thousands of dollars. The only alteration at all is the underscoring or interlining with some colored crayon or something of some words. I don't know why they are underscored and it means nothing; substantially the letters are in the same form. We are willing that they either be erased or that only the interpretation of the letter go to the jury. We hope to present an interpretation of the letter through an interpreter here. So that the letters are very material. They indicate this man's

point of view and his theories and his statements and his declarations at a time when he was not under arrest. They indicate his relationship with the man to whom he charges the responsibility of taking this ransom money. They indicated at a time before he was here before the Court and before he was before any court. They are the expression of his own free will, not dictated by police or anybody else. There is an accounting if your Honor please, that we think is material to this cause. It is about furs. It is about moneys. It is about their relationship. I know of nothing if your Honor please, and we submit very respectfully that there hasn't been anything more important so far as the cross examination is concerned than this very matter.

Mr. Pope: May I add to my objections one other, that this is secondary evidence. The original is not produced and no explanation is offered to the Court for the non-production of the original letter.

Mr. Wilentz: This is the original, if your Honor please, of his writing. He doesn't recall whether this or one which he copied was sent, but substantially, even if it is a copy, both being in his own handwriting, one he thinks he left in his desk, one he sent, there was some little change, he said between the two, but they are both his writing, the one he refers to and the one we have here, and are not secondary; this is not secondary evidence.

The Court: I think I will admit the letter.

Mr. Pope: May we have an exception?

The Court: Yes, you may.

(Exception allowed and the same is signed and sealed accordingly.

THOMAS W. TRENCHARD (L. S.)
Judge.)

The Reporter: Exhibit S-272 in evidence.

(Letter referred to was received in evidence and marked State Exhibit S-272.)

By Mr. Wilentz:

Q. Now, here is another paper which purports to be a letter from you, and will you look at it and see if it is a letter or writing from you. A. (Witness examines letter.)

The Court: There is this further thing, perhaps, to be considered about the admission of this letter, which has been admitted in evidence. Is the letter in German?

The Court: Are you proposing to submit a translation of the letter?

Mr. Wilentz: Yes, if your Honor please.

The Court: It may be if the defendant desires it, the translation might be given us instead of the original, thereby avoiding what seems to be the fear of the defendant, that this document will be rather detrimental to him.

Mr. Wilentz: We will propose that.

The Court: I would suggest that you propose that to counsel for the defendant and see what their wishes are.

Mr. Wilentz: While the witness is reading the letter—

The Court: Yes.

Mr. Wilentz: —may I consult with counsel about your Honor's suggestion?

The Court: Yes.

(Counsel conferred.)

(Counsel confer at table of counsel for defendant.)

By Mr. Wilentz:

Q. Is that your handwriting, sir? A. Yes.

Mr. Wilentz: All right. Just mark it for identification for the time being, please.

The Reporter: S-273.

(Letter marked S-273 for Identification.)

Q. S-273; that was a letter you sent to Germany, wasn't it? A. Yes.

Mr. Wilentz: All right. Now, if your Honor please, counsel have agreed, if it meets with your Honor's approval, that we

will call the gentleman who interpreted these letters, translated them, rather, and ask him if they are a correct translation, and that will give the defendant an opportunity, while the translation is being given, to check on it.

Isn't that the purpose?

Mr. Reilly: Yes. There may be a phrasing where the translator has taken a different intent that was intended by the defendant. We would like to have the defendant here while the translator gives his translation.

The Court: Very well.

Mr. Pope: And we waive no rights.

Mr. Reilly: Oh, we waive no rights. The Court understands that.

Mr. Wilentz: What does that mean? I don't understand.

Mr. Pope: We waive no rights, under our objection and under our exception to the admissibility of the letter; we still stand on that.

Mr. Wilentz: All I want to know is, if your Honor please, whether or not it is satisfactory to counsel as we have just agreed; and no rights of the defendant are waived at any time.

Mr. Reilly: I take it that the objection has been passed upon and the exception

registered. We are protected by that, and now we will take up this translation.

The Court: Yes, I understand the only subject matter before us now is the question of this translation.

Mr. Reilly: That is correct.

Mr. Wilentz: And as I understand it, our agreement is that the defense will recall this witness for cross examination after I get through with the interpreter.

Mr. Reilly: Who is this?

Mr. Wilentz: The defendant.

Mr. Reilly: Oh, yes; he is not leaving the stand for anything except to follow with us.

Mr. Wilentz: All right, Mr. Defendant.

(Examination of witness suspended.)

GEORGE MADISON PRIEST, sworn as a witness in behalf of the State.

Direct Examination by Mr. Wilentz:

Q. You are connected with what University of learning, sir? A. Princeton University.

Q. And you are a professor of languages? A. Professor of German literature.

Q. Professor of German literature? A. Yes.

Q. And you have, at my request—have you

looked at Exhibits S-272 (handing witness exhibit)? A. I have.

Q. And have you looked at Exhibit S-273 for Identification? A. I have.

Q. And have you made what you consider to be a correct translation of these two instruments? A. I have.

(Counsel confer outside the hearing of the jury.)

Q. I don't know how you are going to do this, Professor, but can you tell by reading this whether or not this is the translation of the first exhibit I gave you, and whether or not the next is the translation of the second? Would you be able to tell just by reading the translation, would it recall it to your mind? When did you do this work? A. Night before last.

Q. Night before last? A. In Trenton.

Q. All right then, will you—

Mr. Reilly: Let's call this No. 1.

Mr. Wilentz: Well, we have got a number on it.

Q. Can you take both of those now and tell whether or not that is your work and whether it is a correct translation of the letter? A. (Witness examines letters.) This is the translation I made.

Q. All right.

Mr. Reilly: Now you go slowly and we will go ahead.

By Mr. Wilentz:

Q. Now will you read it, sir?

Mr. Wilentz: Is that what you want, Mr. Reilly?

Mr. Reilly: Yes.

Q. All right. Read it slowly.

Mr. Reilly: Slowly in English.

Q. In English. A. "New York, 4th of May, 1934. Dear Mr. Fisch: A week ago I received your sad information concerning the death of your dear brother and my best friend—"

Mr. Reilly: That is a little too fast, Professor, please.

A. "—please pardon the delay in my reply. It was however not possible for me to realize that I shall not see Isidor again. He was my best friend just as I was his. He will always remain in my memory for he was the only man with whom I could talk about everything, our private matters or business matters. I made the acquaintance of Isidor in 1932. We often met in the house of a family we know, who lived in the same house where he lived. We have spent very pleasant hours there. In the summer we usually went bathing and sailing. I think he probably told you of those pleasant hours, for they are rich in memories. At the same time my work was the same as even now, dealing in stocks and bonds. My calling in Germany—"

Mr. Reilly: A little slower.

The Witness: I beg your pardon.

Mr. Reilly: A little bit slower, please, Professor.

A. (continuing) "My calling in Germany was that of a machinist. Here, however, in order to get on, one must undertake something or other where more money is to be made. In the Spring of 1933 I undertook a small transaction for Isidor in which I was certain that he could only win, and so it happened too. In this way we gradually came to talk more and more about business matters.

"I gave him several times money for the purchase of skins and so he also gave me the same sum for my dealings in stocks and bonds. We shared every time the gain or if we had lost. All these business matters brought us to the decision to go into business together, for we found here away where we could build up our future, for according to his reckoning, he told me that he can earn twenty to thirty per cent per year on the capital laid out. At the same time in my business there are very great fluctuations. I can lose almost everything, but I can also win a fortune if I speculate successfully.

"So we decided to work together each in his branch and on a mutual basis of half and half in profit or loss. We also agreed that if one should sometime need more than the half of the capital laid out, the other should take from his business what is necessary. In the case of Isidor it came into question only when he bought skins. We intended to carry this on in this way until Isidor came back from Germany. Then we were to open a common banking account and carry on all deposits in both names. On the first of November,

1933, we decided to begin our business with $35,000 each a half. After we had reckoned up everything, the value of my stocks and bonds at the time on the first of November, 1933, was $12,000. Isidor's possession in skins is as follows: 100 Silver Fox, 11,000; 1,000 muskrats, 1,500." Just before that muskrats there was something I was not able to interpret, capital "RL", period, which might be "Royal", I am not familiar with the fur business.

"2500 muskrats, two thousand five hundred. Three hundred milren" m-i-l-r-e-n "3390 a-c-t. Big. opossum. 3,900. Total $21,900.

"For these skins I gave him $5,500 from my private bank account so my half was in full in the business $17,500. Further there are still 400 Hudson seal on hand from an old lot which is also a case of half and half. On the 13th of November, 1933, Isidor asked whether I would take $2,000 out of my business for his trip; if not, he would sell some of the skins.

"But we agreed that it is best to leave the skins lying in case of an inflation. Also we hoped we would get more when he came back again. So on the 14th of November, '33, I took $2,000 out of my stocks and bonds account and gave it to Isidor. Some he had changed into traveler's checks; how much I don't know. I told him that he should not change all for the dollar is still safe enough. Our business standing is accordingly as follows: My part here in it is full $17,500. Isidor could not put in completely in full since he had invested money somewhere else, which I will explain below. The account in stocks and bonds $10,000, Isidor half, Richard half. Account in skins $21,000; Isidor half, Richard half."

Mr. Pope: 21,900, isn't it?

The Witness: 21,900, I beg your pardon.

A. (continuing) "Account in skins $21,900."

The Witness: I beg your pardon, gentlemen; you are quite right.

A. (continuing) "Isidor half, Richard half. I get from Isidor half of the skins, $7,500.

"I get from Isidor half of the skins $7500, then there is also the lot of 400 Hudson seal on hand which goes half and half. The value of my stocks and bonds is different every day, now $11,000—$12,000. The value of the skins has also risen somewhat. Furthermore Isidor owes a woman by the name of Mrs. Hille $3,750 from the year 1932. I have now been at the house of this woman and have found it correct. Then Isidor loaned a friend $2,000 for a delicatessen business. Isidor probably has the documents in his bank box. Furthermore, he said to me that he was one of the founders of a bakery. There he told me he has $10,000 invested. Now in recent days I have gone about in order to obtain information, but I could learn only that this same bakery has announced its bankruptcy two years ago but I cannot believe it for Isidor said shortly before he went away that everything there was in order. In this affair there is something obscure. I believe personally that this bakery now has another name for Isidor carried on this business under other names perhaps on account of taxes. In regard to this his papers in his safe deposit box would give detailed information.

"Now, dear Mr. Fisch, I would like to ask you to write me some details, for I assume that Isidor probably had some important papers with him. Would you please send me usual copies in regard

to all the affairs which can give complete information in regard to his activities, such as bills. Perhaps he had with him the storage receipts in regard to the skins and where his safe deposit box is. I don't know in what storage house he left the skins. It is all in his name. I would like to have everything locked up, also his safe deposit box. If I could obtain access to the skins I could sell some or send to you if you wished it. I hope that the skins are not going bad. Since we intended to write everything in both the names only after his trip to Germany, I have no access to all the things without your authorization. Isidor wanted chiefly first to find out about the export possibilities to Germany, and especially with your valued firm; so up to the present time our business was based upon mutual confidence. I have entered everything in my books, purchases and sales, but not the storehouse where he has everything. He told me the places many times, but I did not make a note of it. Who indeed would have thought of such a case as this? Dear Mr. Fisch, how do you plan now to regulate everything? I take the liberty of making you now the following proposition. If you will come here yourself and regulate everything, it would, to be sure, take a great deal of your time to put everything in order for the opening of the safe deposit box can take place only with the authority of the Court, but the value of the things would certainly make it pay.

"Or will you engage an attorney who is to regulate everything? I would certainly advise against your taking this step, for you probably know how people work in such cases and especially in America. In the end there would be nothing left and this would be a blow for his dear survivors and also for me. Another way is the

following: If you will accord me the same confidence as your deceased brother, then I would regulate the whole affair. If I am to take it over, send me, please, all authority. Go, please, to the American Consulate, for Isidor was an American citizen. There you will probably learn everything that is necessary in regard to papers. This way Mr. Fisch would probably be the best and surest, for I too am indeed very much interested in it financially. To speak of confidence, I tell you that your dear brother was my best friend, and his memory shall always remain sacred to me. Awaiting upon your esteem and kind reply, I send my greetings to you as well as to your dear relatives. Richard Hauptmann, 1279 East 222nd Street, New York.

Postscript. "P. S. Isidor's sickness probably arose five years ago. He was at that time in Rockfort"—R-o-c-k-f-o-r-t—"and there he probably took a bath in too cold weather and got a cold which never left him in spite of the fact that he did very much for it.

"He was for a long time under the treatment of a physician named Dr. Finkelstein"—F-i-n—my impression is that in the original letter it was k-e-l; here it is k-l-e; F-i-n-k-l-e-s-t-e-i-n—"so we said shortly before his departure that we would go every time to Florida for the winter months, for the winter never was good for him. We had planned that it would be the last winter in a cold climate, but he wished first to talk over the business affairs with you. Fate willed it otherwise. He did not have a fiancee here. In that respect he was very retiring. He was happiest in our home. I still have two trunks belonging to Isidor in my apartment. There are no important things in them, but if you should be interested I will send the same to Germany. There are photographs,

linen, and other small things in them. Otherwise I will bring all of them with me to Germany for I plan to go over there next year with my family. So it will be an especial honor to me to call at your house. With great respect, Richard Hauptmann, 1279 East 222nd Street, New York."

I have a marginal note that this signature is in pencil.

Q. What date is that letter? A. 4th of May, 1934.

Mr. Wilentz: Just wait a minute. We will see if there are any corrections. Will you just for the moment read the top of that? Is that what you want?

The Witness: Read it aloud?

Mr. Wilentz: Pardon me for one minute. I will see if Mr. Reilly and I can agree. "Another way is the following."

The Witness: "Another way is the following. If you will bring to me or give me the same confidence as your deceased brother—that is to say, which your deceased brother gave me, then I would regulate the whole affair here.

Mr. Wilentz: Just a moment. What is it that you have specially in mind?

(Counsel confer.)

Mr. Reilly: Now, we have straightened it out.

Mr. Wilentz: All right.

By Mr. Wilentz:

Q. Now, will you take a look at the other one. I think you gave us the date of that letter as being May 4, 1932? A. Yes.

Mr. Pope: No. 2?

Mr. Wilentz: Yes, sir.

Mr. Pope: And we desire to interpose the same objection and the same reason to the introduction of letter No. 2 as we did to the first letter which was read, except we do not know that there are any distinguishing colored pencil marks on this letter. There may be. Otherwise, we object to it upon the same reason that it is secondary evidence, that it is not the best evidence, and for the additional reason that it should have been introduced in evidence as a part of the State's direct case.

The Court: The defendant testified that it was his handwriting, he wrote the letter?

Mr. Pope: Yes.

The Court: It will be admitted.

Mr. Pope: May we have an exception?

The Court: You may have an exception.

(Exception allowed, and the same is signed and sealed accordingly.

THOMAS W. TRENCHARD (L. S.)
Judge.)

By Mr. Wilentz:

Q. Will you read it, please, the interpretation? A. Yes.

Mr. Wilentz: As I understand it, this is—

The Reporter: S-272 for Identification.

Mr. Wilentz: I offer it in evidence.

The Reporter: State Exhibit S-274 in evidence.

(Letter referred to received in evidence and marked State's Exhibit S-274.)

Mr. Wilentz: That will be S-274?

The Reporter: Is that July 8th?

Mr. Wilentz: S-273 for Identification is S-274 exhibit, is that it?

The Reporter: Yes, sir.

By Mr. Wilentz:

Q. Will you read it please, the interpretation? A. This is a translation made night before last.

Q. Yes. Now will you read the translation of S-274. A. "New York, 8 July, 1934. Dear Mr. Fisch: I herewith acknowledge with thanks to you the receipt of your esteemed letter of June 3rd,

'34. I will immediately start with the answer to your questions. Henry Uhlig''—U-h-l-i-g—''knew about our relations in part. The authorization from you which you gave to Mr. Uhlig I have seen but it is of no use. Even the business people give you no information about them, even if you present this authorization. Mr. Uhlig told me that he could accomplish as good as nothing. We have gone to the firms mentioned by you, but have found nothing. I was also at the Stevensen's Refrigerating Company'' — S-t-e-v-e-n-s-e-n — ''Number 521 10th Street. Isidor had skins lying here in 1933. There were to the best of my knowledge the cat skins. Isidor sold these skins to a firm which announced its bankruptcy, so no hope is present of securing the amount.

''In regard to Mrs. Hille,'' H-i-l-l-e ''things are as I wrote you in my first letter. Isidor has not paid back the main sum. Further I informed you that Isidor loaned a friend $2,000. I do not know the name. He only told me it is for a delicatessen business. You wrote me that it was Mr. Faleke'' F-a-l-e-k-e. ''Now I have gone to see this gentleman and he told me that he had loaned Isidor $800. He showed me also the receipt for it. Now I do not know if that is one and the same person or is it still somebody else. Only his safe deposit box can give information about it.

''Also in regard to the bakery firm, as I have already informed you, there is no bakery firm of the name Knickerbocker Pie Corporation.

''In regard to the safe deposit box affairs I can do nothing at all here, for no bank gives information to a stranger whether the person concerned has a safe deposit box at all. You wrote me also that you have had the safe deposit box locked.

''Would you tell me in what bank the safe deposit box is? In regard to the building lot, Isidor

told me that he sold same a rather long time ago. Mr. Uhlig had been at the Jewish Chrzanober Association. He told me that the head would write to you or to your father personally. I assume that this has happened in the meantime. Since you, dear Mr. Fisch, intend to come here, which I also consider the right thing to do, to put everything in order, I will leave the two trunks stay here for there are things in them which are not worth the sending. In my last letter I quite forgot to confirm the receipt of the leather travelling bag and the zither—or perhaps the word means guitar. Everything has arrived here in the best condition. My best thanks for everything. With regard to the fourth item in the listed skins, it should read 300 Nutria at 10, 3,000. Very respectfully, Richard Hauptmann, 1279 East 222nd Street, New York."

Mr. Wilentz: Is there any change you want? Is it all right?

Mr. Reilly: Yes.

Mr. Wilentz: This is the one we want marked in evidence, 274, two pages there. If there is nothing else, Professor—is there anything else?

Mr. Reilly: Not now.

Mr. Wilentz: Thank you very much, sir.

(The witness leaves the stand.)

The Court: Are these translations offered in evidence?

Mr. Wilentz: I am going to offer them now, if your Honor please.

The translations I am offering for the convenience of both counsel.

Mr. Pope: And we object to them for the same reasons that we have already stated to the Court as our objection to the admission of the original evidence, original letters.

The Court: You have no objection to them as translations?

Mr. Pope: No.

The Court: No. Nor as to the method of proof, no objection to that?

Mr. Pope: No.

The Court: Your objection really rests upon your original objection.

Mr. Pope: Exactly.

The Court: They will be admitted.

Mr. Pope: Subject to the same exception?

The Court: Yes.

(Exception allowed, and the same is signed and sealed accordingly.

THOMAS W. TRENCHARD (L. S.)
Judge.)

The Reporter: Exhibits S-275 and S-276 in evidence.

(Letters referred to were received in evidence and marked State's Exhibits S-275 and S-276.)

Mr. Wilentz: Now may we have the defendant back on the stand.

BRUNO RICHARD HAUPTMANN resumed the witness stand.

Cross Examination (continued) By Mr. Wilentz:

Q. Now, your friend, Mr. Fisch, lived in a one-room—in one room, didn't he? A. Yes.

Q. He was a boarder somewhere? A. Yes.

Q. What sort of a room was it he lived in? A. A small room.

Q. And with whom did he live? A. Alone.

Q. Alone. First he lived with Henckle, didn't he? A. No.

Q. The same building? A. The same building.

Q. Do you know the name of the landlady or the lady that was in charge of the apartment where he lived? A. I know the name but I forgot it.

Q. But he lived in one room? A. One house.

Q. He lived in one room, though? A. Yes.

Q. Did he ever have more than one room during the time that you knew him? A. I don't know; that's what I don't know, only—

Q. Your best friend; you knew where he lived, didn't you? A. Well, I find so many things out later that I really don't know.

Q. I am talking about what you found out first when he lived in this country. Did you know

whether or not he ever had more than one room for his home? A. I do not.

Q. Whenever you saw him at home it was in one room, isn't that right? A. Yes.

Q. He owned no automobile during the time that you knew him? A. No.

Q. He didn't drive an automobile? A. I don't know.

Q. You never saw him drive one? A. No.

Q. And that is the Mr. Fisch that we are talking about, who gave you, you say, $15,000? A. Yes.

Q. Now you wrote to Mr. Fisch's brother that you too are indeed very much interested in it financially, interested in his estate you meant, didn't you? A. Yes.

Q. Interested in what he left? A. Yes.

Q. And the reason you were interested in what he left was because he owed you money? A. Yes.

Q. And he owed you money according to your figures of $5500 in cash and $2,000 which you gave him when he went to Europe? A. Yes.

Q. $7500? A. Yes.

Q. So that you gave him $7500? A. Yes—but not actual money, only—

Q. You said in the letter to Fisch that you gave him $5500 out of your private bank account. Is that the truth and was it the truth then? A. I give him—

Q. Please answer the question.

Mr. Reilly: He is answering it.

A. You have to give me chance to explain it. I cannot say a simple yes or no.

Q. All right, sir. I will withdraw it and maybe it is possible. Is it not a fact that when you wrote to Mr. Fisch in May, 1934, you said to him in the letter which is Exhibit—the first one—

The Reporter: 272.

Q.—in 272 "For these skins I gave him $5500 from my private bank account." Was that the truth? A. That is the truth one way. That is the truth in the amount. But the transaction was this way: I got fur profit coming to me, was around three thousand or four thousand between three and four and there was, he got still to put in the market to cover his loss and that amounts to $5500. And he couldn't give me them $5500 so I said I leave it in your fur account and this explained the $5500.

Q. When you wrote this letter that you took this money from your private bank account, was that true; private bank account? A. I put it in this way.

Q. Please tell me, was that the truth?

Mr. Reilly: Let him answer.

Mr. Wilentz: No. I think I am entitled, he has explained the transaction, I want to know about the private bank account.

The Court: Well, so far as it relates to the private bank account it would seem to me that he ought to answer the question yes or no, and then if he has any further explanation to make about it, why, it may appear on re-direct examination.

Mr. Wilentz: Yes.

By Mr. Wilentz:

Q. When you wrote to Fisch's brother that you gave Isidor Fisch this money, and when you

wrote that you said you gave it to him for your private bank account, was that the truth, about the private bank account? A. It doesn't mean my private bank account.

Q. Will you please answer yes or no, whether or not that was the truth? A. It means not the truth, by my bank account; I never got a bank account of $5,500.

Q. The part about the private bank account is not true? A. No.

Q. The other part, you have an explanation for it? A. Yes.

Q. And the explanation you have for the other part you already gave? A. Yes.

Q. But the part about your taking the money from a private bank account of yours, that was not true? A. That was only to make the long story short in other ways, half explaining practical all of our business transactions, he probably wouldn't understand, so I put it this way.

Q. You didn't get $5500 out of your private bank account and give it to Isidor Fisch, did you? A. I didn't have it.

Q. So that that was not the truth? A. It is true about the $5,500, but it is not the true about the bank account.

Q. Not true about the bank account? A. Because I didn't have any.

Q. Now was it true that you put up $12,000 worth of stocks and the $5500 we just discussed? A. My money was put in the stock market in the beginning for 1932, it was in November, 1933, it came up to $12,000, and that's where I said I bought $12,000.

Q. Did you put $12,000 worth of stocks and securities, your stocks and securities, up for this partnership? A. I put $12,000 less 2,500, I say 9,500 in securities.

Q. You wrote to Mr. Fisch 12,000 in May, 1934, and you wrote to him 12,000 in July, 1934, didn't you? A. Yes.

Q. And all the time you knew it was 9,000? A. 9,500.

Q. 9,500? A. Yes.

Q. You put up the stocks and securities, though whether it is worth 9500 or whether it is worth 12,000; isn't that right? You are the man that put them up? A. Yes.

Q. Fisch put up furs, isn't that right? A. That's what he said.

Q. That's what you wrote, isn't that it? A. Yes, that's what, but later I find out that is not true.

Q. But you wrote in the letter that Fisch put up furs, isn't that right? A. That is right.

Q. Yes, sir. Not a word in this letter that Fisch put up a dollar, is there, for the partnership? A. But certainly I wrote him he put up twenty-one thousand nine hundred dollars and for this I put in five thousand five hundred dollars.

Q. But you wrote him that he put up furs which you put a value down for of $21,900. A. That is the value Mr. Fisch give me.

Q. You will please answer this question: Didn't you write that he put up furs for $21,900? A. Yes.

Q. But no cash. A. No cash.

Q. That is what you wrote, isn't that so? A. Yes.

Q. Was it the truth? A. Yes.

Q. It was the truth. A. It is the truth.

Q. So Fisch put up no money. A. He put—

Q. In the partnership. A. Not on the day, on the transaction—

Q. All right, sir. A. On November, but he put—

Q. Now you wrote right here in your first letter

that you made the acquaintance of Isidor in 1932? A. Yes.

Q. You often met in a house. A. Yes.

Q. That was the Henckle house, wasn't it? A. It was the Henckle house.

Q. Yes, sir. You spent very pleasant hours there. A. That is true.

Q. And so forth. Now, then, you get down to business. A. Yes.

Q. "At the same time—" That is 1932—"my work was the same as even now: dealing in stocks and bonds." Was that the truth? A. Yes.

Q. "My calling in Germany was that of a machinist." Is that the truth? A. Yes.

Q. Not carpenter? A. Machinist and carpenter.

Q. Well, you only wrote in your letter machinist. Were you a carpenter in Germany or were you a machinist? A. I was machinist.

Q. Machinist. "Here, however, in order to get on one must undertake something or other where more money is to be made." Now, then: "In the spring of 1933," not '32, but '33 "I undertook a small transaction for Isidor in which I was certain that he could only win and so it happened too." A. That is them $2,000 you find in—but I didn't mention them money he put in before.

Q. You wrote his brother that it was in the Spring of 1933 that you undertook a small transaction and you induced him to do it. A. That is just a small transaction where I was responsible for it.

Q. Did you write to him one line about any business you had in 1932 with Isidor Fisch? A. No, it wasn't necessary.

Q. But you haven't got it in the letters, have you? Nothing in the letter till 1933 about business. A. It wasn't necessary to put anything in.

Q. Whether it was necessary or not, it is not in the letter, is it? A. It is not in.

Q. No, but in the Spring of 1933, just like your book shows, then you did do some business with Isidor Fisch? A. But dis business I was responsible.

Q. Your letters and your books correspond exactly, don't they? A. I didn't follow the days.

Q. Well, you took the figures from the books, didn't you? A. Oh, I guess I took it out of my head, I don't know.

Q. You took it out of your head, the skins and the amounts and everything? A. Those I took from the book.

Q. From the book, sure. And in the Spring of 1933 you undertook a small transaction for Isidor. All right. Now, let's see,—"in this way, from the transaction in 1933, in this way," you said, "we gradually came to talk more and more about business matters." Now, was that the truth? A. That is the truth.

Q. Yes, so that you took a small transaction in 1933, and in this way you got to talk more about and more about business? A. This was, excuse me.

Q. Yes, sir. A. —the talk was about to make one firm.

Q. I see. A. Before 1932, every account was separate, I didn't care much for his, he was buying and so did I, but in 1933, we gradually came closer and closer together to make one firm.

Q. Yes, sir, we will get to that. A. Yes.

Q. But now let me take you back to the small transaction in which you say you started with him. "In the spring of 1933, I undertook a small transaction for Isidor in which I was certain he could only win, and so it happened, too, in this way, we gradually came to talk more and more

about business matters." And that is how in November, 1933, you decided to have a partnership, isn't that right? A. Yes.

Q. Yes. So what you really did was, you did a little business for him in the Spring of 1933 and you showed him you could make money for him in stocks, didn't you? A. Oh, no. That's what I explained already. That's them $2,000 I was responsible for it.

Q. That's right, the $2,000. A. But I put in here, in the letter—

Q. The $2,000? A. But for the money he put in the market I was not responsible.

Q. Yes. A. I paid his stock for his account, for his money, in my account.

Q. You paid the money? A. He give me the money and I paid the stock. I told you about advising him to take care of your stock account yourself. I said that's all right.

Q. Let's get right back to the Spring of 1933. A. Yes.

Q. Dates, times. A. Yes. We are back in '32 already.

Q. No, in the Spring of 1933 you undertook a small transaction, that is where you bought stock for him, and he made $2,000 profit, isn't that it? Or you gave him $2,000 or he gave you $2,000? A. He gave me $2,000

Q. That is in the Spring of 1933? A. Yes.

Q. You made a profit for him? A. Yes.

Q. $103? A. Yes.

Q. That is the one you refer to in the Spring of 1933, isn't that it? A. That is right.

Q. All right. You said to Isidor Fisch "Let me make some money for you," isn't that so? You were certain he could only win, "and so it happened too"? A. Yes.

Q. And you took his $2,000 and you invested it

in stocks, is that right? Or was it your money? A. That is all right.

Q. His money or yours? A. His money.

Q. His money. And you made $103 for him? A. Yes.

Q. In that way; "In this way we gradually came to talk more and more about business matters." Isn't that correct? A. In business matters, I mean it this way: we came closer and closer together to build up one firm.

Q. When was the first time he gave you any money, any money for anything? When? A. In August or September, 1932.

Q. August? A. Yes.

Q. But you didn't say anything about that in this letter, did you? A. If I should explain everything in the letter, then I have to write a book.

Q. You don't have to explain everything in the letter. A. I guess my—

Q. You say in this letter that in the Spring of 1933 you undertook a small transaction, not in 1932. Did you have transactions in 1932? A. Yes.

Q. Why didn't you say that instead of saying you undertook it in 1933? A. Well, I am—I guess I am not supposed to making clear every transaction we have.

Q. Why didn't you put in your book? A. It wasn't necessary.

Q. It wasn't necessary? A. No.

Q. You wrote the 1933 transactions in the book? A. That's what I said, only $2,000 where I advised him to take care of it.

Q. Didn't you put every transaction in 1933 in this book? A. Every transaction—

Q. Exhibit S-258, of Fisch's? A. Of my name.

Q. Well, whether it is in your name or whose name it was, didn't you put it in this book, the 1933 transactions? A. Yes, '32 and '33.

Q. Yes, '2 and '3? A. Yes.

Q. Fisch's too? A. Yes.

Q. Then this book is a correct account of the moneys he gave you, isn't it? A. Yes.

Q. And the only moneys this book shows is $2,000 given by him, isn't that right? A. No, sir.

Q. What else does it show as being given by him? You show me any record in your handwriting or book where he has put more than $2,000 in cash in stocks. A. (Witness refers to book.) There are two markings.

A. There are two marks.

Q. Show me anything in the book where it says Fisch put in any money, the name of Fisch. A. No, the name Fisch isn't in.

Q. Well, show me the name Fisch outside of that $2,000. A. It wasn't necessary.

Q. Whether it was necessary or not will you tell me whether it is in the book? You said it showed. A. The amount is in the book.

Q. Will you please show me any name, anything that means Fisch, anything written down Isidor or Fisch? A. Didn't keep any record of this.

Q. So you haven't got Isidor Fisch putting any money in there. A. No.

Q. No, or—let me have the book now. A. The money Fisch gave me he keep the record of the money he was giving me.

Q. He kept the record, but you didn't? A. It wasn't necessary.

Q. Well, whether it was necessary or not, you didn't keep it? A. I did not.

Q. Now, "And so he also gave me the same for my dealings in stocks and bonds, we shared every time the gain or if we lose," is that true? A. Yes.

Q. Before the partnership or afterwards? A. Well, the partnership get in effect in November, '33.

Q. Yes. A. And dere was no selling for furs.

Q. There was no what? A. No selling.

Q. No selling of furs? A. No, sir.

Q. Now "In this way we gradually came to talk more and more about business matters, I gave him several times money for the purchases of skins and so he also gave me the same sum for my dealings in stocks and bonds. We shared every time the gain or if we had loss." Did you share every time the gain or loss with Fisch on the stocks and the furs to which you refer to, right immediately preceding this? A. I shared the gain and the loss on certain stock.

Q. Then this is not the truth, is it? A. Not on all of them stocks.

Q. Don't you write throughout this letter that you and he were fifty-fifty, that you shared the gain, and you shared the loss throughout all your transactions? A. No.

Q. All right. You just heard that part, didn't you: "We shared every time the gain or if we had loss. All these business matters brought us to the decision to go into business together, for we found here a way where we could build up our future, for according to his reckoning, he told me that he could earn 20 to 30 per cent per year on the capital laid out. At the same time in my business there are very great fluctuation. I can lose almost everything, but I can also win a fortune if I speculate successfully. So we decided to work together, each in his branch, and on a mutual basis of half and half in profit or loss." A. Yes, that is right, but that is all goes on the 1st of November, 1933, when we build up our firm.

Q. That is right. A. Yes.

Q. Right here where you say that you are going into this partnership, from November, 1933, you

and he are to go fifty-fifty? A. From there we go fifty-fifty, but not before.

Q. Well, that is what I am coming to. A. Yes, and that is what you mixed up.

Q. No, I don't mix it up. A. Oh, yeah, you mix that up.

Q. All right, sir. Now where do I mix it up? A. You mixed half and half and—

Q. Where? A. All over.

Q. Haven't you got half and half before that? A. On some of them.

Q. Don't you write on the letter "In everything"? It is your letter, not mine. A. Everything.

Q. Everything? A. Well, I didn't mean it everything.

Q. "We shared every time the gain or if we had lost." That is the first part. And then the last part, "after the partnership, we also agreed on the basis of half and half, for profit and loss, on a mutual basis of half and half." That is your letter. Did you mean it? A. That is commencing from the 1st of November?

Q. The last one is the 1st of November; the first one is before that. A. Well, better give me the letter.

Q. "About the spring of 1933 you undertook a small transaction"—right from there, before you get to the partnership, tell me whether you don't say in there that it is to be in this language, "We shared every time the gain or if we had lost."

Mr. Wilentz: I want you to get these men copies of these letters, two or three copies. Haven't we got an extra copy now? You men may use these copies.

A. Will you read this what you refer to it?

Q. "In the Spring of 1933," that is on the first page, third paragraph, No. 1 page, the paragraph starts, "At the same time," and then "zu zelbe zeit." Doesn't it mean "at the same time"? A. There is a little bit further down.

Q. I know, but that is where the paragraph starts. Now, get to "In the Spring of 1933." You have got it folded up, haven't you? A. I have got it.

Q. Well, if you have got it, supposing we start. A. Yes. I am ready.

Q. All right. "In the Spring of 1933—" A. Yes.

Q. Well, supposing you translate it as you think it is. A. "In the Spring of 1933 I made small transaction for Isidor where I was positively sure I only could win. So it happens. So it came—"

Q. "In this way," yes. A. "In this way, we gradually came closer."

Q. "To talk more and more." A. "More and more about business."

Q. Business, yes, matters. "I gave him"— A. "I gave him"—

Q. "several times"— A. "several times—"

Q. "money for"— A. "money for skins"

Q. "for skins"— A. "so did he"

Q. Yes. "give me the same sum". A. "The same sum in the market."

Q. That's right. Now next. "We shared"— A. (No answer.)

Q. Read the German, what are the German words? A. (No answer.)

Q. Out loud, please. A. No, wait a minute.

Q. The German words, just those few words there. You see, you are going all the way down

to the end of the letter. Just those few words. A. Me split the loss or the win.

Q. Is that it, isn't that what I just read to you, "we shared every time the gain or if we lost." You say "We split it." What did you say, "We split it"? A. Split it, that means just the same.

Q. Sure it means just the same, "We split it, the gain or the loss." A. Just a second, just a second (Witness reads letter).

Q. Take your time and see if that says anything else. You are not having any trouble reading your own letter, are you, Mr. Hauptmann? A. Absolutely not.

Q. What is taking such a long time, are you trying to figure out your answer? A. No.

Q. Well, why don't you tell us then? We stopped there. We want to know whether or not what I read before was true or correct? A. Oh, I didn't know there was any question on it.

Q. You started reading this letter when you stated, that, I think that you stated that I either wasn't reading it correctly or that I was misrepresenting something, mixing you up. Now, you have read the German letter, your own letter, haven't you? A. Yes.

Q. And the letter says, does it not, just as I read to you a while ago? A. Yes.

Q. That in the spring of 1933, you undertook a small transaction for Isidor in which you were certain that he could only win, and it happened, too, "In this way we gradually came to talk more and more about business matters. I gave him several times money for the purchase of skins and so he also gave me the same sum for my dealings in stocks and bonds. We shared every time the gain or if we had loss." Do you hear that? A. Yah, but that—

Q. Did you write that? A. Yah.

Q. Was it the truth? A. It is the truth, but is concerns after the 1st of November, '33.

Q. Now let's see. A. The last sentence.

Q. Now let's see where you talk after the first of November and show us that it is different. "All these business matters brought us to the decision to go into business together." The partnership was in November, wasn't it, 1933. A. Yes.

Q. "For we found here a way where we could build up our future, for according to his reckoning he told me that he can earn twenty to thirty percent per year on the capital laid out. At the same time, in my business there are very great fluctuations; I can lose almost everything, but I can also win a fortune if I speculate successfully. So we decided to work together, each in his branch, on a mutual basis of half and half in profit and loss. We also agreed that if one should some time need more than half of the capital laid out, the other should take from his business what is necessary. In the case of Isidor it came into question only when he bought skins. We intended to carry this on this way until Isidor came back from Germany. Then we were to open a common bank account and carry on all deposits in both names. On the first of November we decided to begin our business with $35,000, each a half." A. Correct.

Q. So that when you started in the spring of 1933, as you write, you undertook a small transaction with him, in that way you came together more and more, you made a little profit for him and you gave him some money for the purchase of skins, he gave you some money for the purchase of stocks, "we shared every time the gain or we shared the loss". That was before November, wasn't it? A. On certain stocks and on certain furs only.

Q. Why didn't you put it in the letter then? A. And even when you look—

Q. Why didn't you put it in the letter? A. Why should I explain everything?

Q. Why didn't you put it in the book? A. In the book you see it.

Q. Did you share it fifty-fifty with him before November, 1933? A. Some of them only 20 per cent.

Q. Some 20 per cent? A. (Nods head.)

Q. Some 20 per cent? A. Yes.

Q. You never said anything about 20 per cent in your direct testimony to this jury?

Mr. Reilly: Oh, yes he did.

The Witness: Please—

Mr. Wilentz: All right. The record will show it then.

Mr. Reilly: The record will show it, and nine times under cross examination.

Mr. Wilentz: I am talking about direct.

Mr. Reilly: Twice under direct.

Mr. Wilentz: My recollection is to the contrary.

By Mr. Wilentz:

Q. You didn't put anything about 20 per cent in the letter, did you? A. Well, I told you before—

Q. Did you put anything in the letter about 20 per cent? A. No, because it isn't necessary.

Q. Did you put anything in the letter that he gave you $15,000? A. It wasn't necessary.

Q. Did you put anything in the letter that he lost $15,000? A. It wasn't necesary.

Q. Did you put anything in the letter about any thousands of dollars that he gave you? A. It wasn't necessary.

Q. Did you do it? A. I did not, because it was not necessary.

Q. Did you put it in your own records? A. In the records it is in my name.

Q. In your name? A. Yes.

Q. But nothing in the records that Fisch put in $15,000, in your records, in his name? A. No.

Q. No. Now, let's see. A. I was not trouble—I always get the money from him and when he lose he put up the money.

Q. So you started your business with $35,000 each,—$12,000 in stock you put up, and $5,500 you wrote here from your private bank account, and he put up furs. A. Them $5,500 not actual money.

Q. You explain that. A. I explain that already.

Q. And he put up furs? A. Yes.

Q. Now, that went on from that time on, then, to the 13th of November, and Isidor Fisch came to you and said, "I want to go to Germany." Isn't that right? A. Yes.

Q. "And I need some money—" A. Yes.

Q. "—and I haven't got any money—" A. Yes.

Q. "Shall we sell some skins?" A. Yes.

Q. And you said, "No, let's wait with the skins. Maybe the market will be better." A. That is what I said.

Q. "I will give you $2,000 from my account." A. That is right.

Q. And you took $2,000 in cash? A. I took $2,000, I guess.

Q. From your account? A. Yes.

Q. Your money? A. Yes.

Q. Not Fisch's money? A. Well, really, he was interested with $2,500 still in them $12,000, I didn't mention, but I wrote him in January or February about them thousand shares, I sold them for him, I got to sell them.

Q. Did you give him $2,000 of your money from your account, your money in November, 1933? A. Yes, yes.

Q. Not his money? A. No.

Q. No. Well, why do you then say, well, two thousand you had of his and all that sort? A. You still got an interest from him, 2,500.

Q. But the 2,000 was yours? A. Yes.

Q. So, what the bank account shows, what the brokerage account shows, are your moneys going to Fisch, isn't that right? A. Them $2,000, yes.

Q. And that is the $7500 that he owed you at the time of his death? A. Yes.

Q. 5500 and two? A. Yes.

Q. Seven thousand, five hundred dollars? A. Yes.

Q. And that is why you were interested in the account, isn't that so? A. Yes.

Q. That is why you write to him that you are especially interested or something to that effect: "This way, Mr. Fisch, would probably be the best and the surest, for I, too, am very much interested in it financially." A. Yes.

Q. Isn't that so? A. Yes.

Q. And so you write to him to speak of confidence "I tell you that your dear brother was my best friend and his memory shall always remain sacred to me." That was in May, 1934? A. Yes.

Q. Yes, sir. You wanted to be appointed administrator, isn't that it? A. I tried, yes.

Q. Yes, sir. Now you know that Mr. Fisch had borrowed money from other people and invested it in business? A. I know it after.

Q. And you know those businesses went bad, they went bankrupt? A. Well, I find out many things after.

Q. Well, we are talking about the business that you wrote about, Mrs. Hille.

Q. (continuing.) Then finally you get down here and you tried to find out the storage house where some of the skins may be, because he told you about it, but you forgot to write it down, isn't that right? A. That is just the same thing, I didn't write down.

Q. Yes. Well, you— A. It is just in the book, I know—

Q. Yes. A. —he got his money, his affairs in his book.

Q. You had a habit of not writing it down, is that it? A. No, because he was keeping care of it.

Q. He told you about the warehouse, but he didn't put it down, you didn't put it down? A. No, he told me about it because I never figured he would die.

Q. Now, let's see. Then you advised him not to take an attorney? A. I did.

Q. Yes. All right. "But if he will accord you the same confidence as Isidor did," your deceased brother, then you will regulate the whole affair? A. Yes.

Q. Yes. You were going to take the place of the lawyer. A. No, I couldn't take it, I have to take a lawyer.

Q. You thought you were good enough to do the lawyer's job too, didn't you? A. No, I knew I would have to take a lawyer.

Q. No. You thought you would be good enough to take the lawyer's place, didn't you? A. Oh, no.

Q. Oh, no? Didn't you tell him not to do it, that you would do it instead? A. Yes; you don't understand it right.

Q. Well, I am only reading from your letters, sir. A. Yes. I mean this way: if he got a lawyer he got to give it to a lawyer in Germany, then he have to take a lawyer in the United States, and after the whole affair is settled there is nothing left.

Q. Is that what you mean? A. And I guess I am positively right.

Q. You are not making a mistake about that, are you? A. No.

Q. "I would certainly advise against your taking this step, for you probably know how people work in such cases, and especially in America." A. Yes.

Q. Nothing about Germany there. A. But I know you got to get a lawyer in Germany.

Q. But what you were worried about was the lawyer in America, isn't that right? A. (No answer.)

Q. Isn't that right? A. (No answer.)

Mr. Reilly: Before we get into a discussion of lawyers may we have a five minute recess?

The Court: Yes, we will take a recess for five minutes.

(At 3:34 p. m. a short recess was taken.)

The Court: Now, Mr. Defendant, you may resume the witness stand.

BRUNO RICHARD HAUPTMANN resumed the witness stand.

Cross Examination (continued)

By Mr. Wilentz:

Q. We were talking about lawyers before, and we will pass that for a minute to come to another passage in your letter: "I have entered everything in my books, purchases and sales, but not the storehouse where he has everything." Was that the truth? A. Yes; I put everything in my book, he bought when we start our business on first of November.

Q. But you did not put all the purchases and sales of furs in there, did you? A. No. I just happened to put one month in.

Q. You did not put in all the purchases and sales in your books, did you? A. On this date?

Q. Just answer the question please, Did you put all the purchases and sales in your book? A. No.

Q. All right, sir. Now you wrote to Mr. Fisch's family about the time that you were going out bathing and about the good times you had, didn't you? A. Yes.

Q. They wrote you they wanted to know about his position and his standing and whatever goods he left, etc.? A. Yes.

Q. In 1932, you did a lot of business with him? A. Yes.

Q. But you only wrote him about the swimming and the bathing. You didn't write him about the business? A. Business was over.

Q. You didn't write him about any business transactions in 1932, did you? A. It was not necessary.

Q. Wasn't it necessary to tell them what they wanted and not to tell them about the bathing

and swimming? A. Only to keep in a general outlining where we have been.

Q. Didn't you think it was necessary to tell them, the dead man's family, your best friend's family, about the moneys he invested in stocks and lost? A. This business was over.

Q. Didn't you think it was necessary to tell them in answer to their questions that he had bought and sold stocks in 1932, that you did it for him, that you were his financier, that you handled it for him, and that he lost money? A. I guess it just the opposite way. I know he losed so much money, but this was over. Why should I bother his brother and tell his brother he lost so much money?

Q. Why didn't you write him the truth? A. That is the truth.

Q. You wrote him nothing about 1932, did you? A. Because it was not necessary.

Q. But you didn't, did you? A. It was not necessary.

Q. You didn't write him anything about business in 1932, did you? A. I did not.

Q. No, you concealed it from him, you kept it away from him. A. There was nothing to conceal.

Q. You did conceal it, didn't you? A. There was nothing to conceal.

Q. You kept it away from him. A. Oh, I answered the question plenty times now.

Q. You answered the question plenty times and you concealed it plenty times. A. There is nothing to conceal.

Q. You sent him stories about two trunks but nothing about the money box. A. In this time I didn't know it.

Q. Well, you finally found out about it and

didn't tell him anyway. A. I was going to tell him.

Q. But you didn't tell him. A. Not yet.

Q. Two trunks with nothing in it, linens—you looked through the trunks. A. Yes.

Q. You forgot all about the money box. A. Give me a chance to answer.

Q. Yes, sir. I will. You forgot about the money box, didn't you? A. I found it out in all this 1934.

Q. You forgot about it? A. And I didn't write. I didn't have any chance to write then.

Q. Up to that time you forgot about it. A. I was figuring Mr. Fisch—

Q. Up to that time you forgot about it.

Mr. Reilly: Let him answer.

A. You didn't give me any chance to answer it.

Q. Did you forget about it up to that time? A. Not exactly forgot it.

Q. What then? A. But he was writing me before a letter and I wish you bring the letter up in the court room, too.

Q. I am asking you first whether or not you had forgotten about the money box up to the time you wrote the letter. Is there anything difficult about that. A. No, I didn't find the money box at all.

Q. That's because you forgot it? A. Yes.

Q. Isn't that it? You had it in the closet but you forgot about it? A. I forgot about it.

Q. That's what I am asking you. A. Yes.

Q. You forgot about it. So you didn't write to him? A. I couldn't write; I couldn't write.

Q. Because you forgot about it? A. I forgot about it.

Q. But you put the box there, you put the

money box there in the closet? A. I put it there, yes.

Q. Then you found it? A. Yes.

Q. And then you didn't write because you thought he was coming over, isn't that right? A. I was figuring on him coming over in August or the first part of September.

Q. And then in July again you wrote him, this letter was in May, in July again you wrote him that you had two trunks with nothing in them? A. Yes.

Q. No use sending them? A. Yes, that is true.

Q. You forgot about it up to July too, didn't you? A. I find the money box in August.

Q. You forgot about it up to July 2nd, didn't you? A. Yes, I find the money books in August.

Q. The books that you kept with the hours of work, the hours of work every day, 1928, '29, '30, and so forth, you kept out of that book the extra hours that you worked, didn't you? A. I put in the extra hours only for them three houses, because it was necessary, them people couldn't pay me right away, when I was finished.

Q. But you kept the other hours out of it, didn't you? A. Yes.

Q. The book isn't correct, is it? It is correct so far, but the—concerning my pay check.

Q. But you concealed the rest of it, you were hiding the extra hours, weren't you? A. Otherwise I couldn't save the money.

Q. You were hiding the extra hours and didn't put it in your book, did you? A. Because there is days—

Q. Answer the question. You were hiding it? A. Dare is no hiding.

Q. You were hiding it from your wife, weren't you? A. This book got nothing to do mit anything at all, that is my personally.

Q. The little book where you put your inventory in— A. Yes.

Q. —and you said you got $16 home, that is not the truth, is it, the book where you said $16 "zur hause", that is not correct, is it? A. That is correct.

Q. $16 "zur hause" is correct? A. That is correct, besides the money that I didn't put in.

Q. Oh, you had 3500 and you only put 16 in, and you call that correct? A. I thought I told you yesterday here—

Q. You were hiding it from your wife, weren't you? A. Yes.

Q. And you were hiding the extra hours from your wife, weren't you? A. Well now, listen.

Q. You were concealing— A. I am—

Q. You were concealing it from District Attorney Foley, the truth, weren't you, you concealed the truth from Inspector Bruckman; you concealed the truth from the police; you concealed the truth from the Supreme Court Justice; you concealed the truth from your wife; you concealed the truth about your board; you have concealed the truth about everything, in this case, haven't you? A. No, sir.

Q. You haven't? A. No, sir.

Q. You concealed the truth about the $20 ransom bill they found in your possession, didn't you? A. I did not.

Q. Didn't you tell them a lie about it? A. Well, they got the $20 bill.

Q. But you told them it was one of $300 that you had, that you had saved, from friends, isn't that right? A. That is right.

Q. That wasn't the truth, was it? A. Well, in the first time—

Q. It wasn't the truth, was it? A. This money, it wasn't stolen—

Q. That was not the truth? A. It was not stolen and I didn't feel to say to the police just how it is.

Q. When you said the $20 was a part of the $300, it was not the truth because it was $20 out of the $15,000 or so: isn't that right? A. Say that again.

Q. When you told the police that this $20 came from $300, which you had saved up, which you had gotten from your friends, and which you got from the banks, that was not the truth, was it? A. No.

Q. When you told the police that there was no more money after they found $13,000 and they then found another $1,000, when you told them there was no more, that was not the truth? A. Yeah, there was a special reason for it.

Q. There was a special reason but you didn't tell them the truth, did you? A. That is correct.

Q. Correct. When you put $16 as the balance in there in cash in your house, that was not the truth because you wanted to hide it on your wife, isn't that the truth? A. Then $16 is the true.

Q. But you had $3500 when you put $16 in there, isn't that right? A. But I am responsible for everything I put in this book unless they are—

Q. Yes, sir. A. Is that the official record?

Q. Certainly. It is your official record. A. I have to keep for—that is only a memorandum book for myself.

Q. Yes. And that was good enough for you? A. That's good enough for me.

Q. You kept it in order to hide the money from your wife, isn't that it? A. No.

Q. You did hide the money from your wife, didn't you? A. I did.

Q. Yes, sir. When you swore in the Supreme Court before Justice Hammer that that was your writing on S-204 you didn't tell the truth there,

did you? A. I was so mixed up in the question and everything—

Q. That you didn't tell the truth, so mixed up? A. No, no; no, no.

Q. When you told District Attorney Foley it was your handwriting, the numbers, when you told him that was your board, that wasn't the truth, was it? A. I guess I never committed.

Q. You never committed? A. No, because it isn't my handwriting, especially in telling—

Q. When you stated here in the first day that you were under examination and I asked you "Are you willing to stand upon your testimony before the Supreme Court in New York" you said to a certain extent—didn't you? A. Did I say to a certain extent?

Q. Yes. A. Yes.

Q. You said to a certain extent. A. Yes, yes, I did.

Q. You mean to a certain extent it was true. That is what you meant, isn't it? A. Yes.

Q. And you meant to a certain extent it wasn't true, is that what you meant? A. Well, I don't say it wasn't true.

Q. What did you mean by a certain extent? A. I know, when I give certain answer, I didn't have time to think, and I got—after that I got plenty of time when I found out it is difference.

Q. Yes. A. So I corrected it.

Q. So to a certain extent it was correct and to a certain extent it wasn't correct. A. Yes.

Q. You made a mistake about the board with Dr. Condon's name and telephone number on it. didn't you? A. What you mean, mistaken?

Q. When you said Yes you meant No? A. No, I never said correct yes.

Q. Well, you said Yes— A. In the beginning I was—it is funny, what I got in my mind; I know

sometimes I was writing address and numbers in books and so—let me finish, please.

Q. Yes, sir. You have been doing a lot of explaining today. A. Yes. So I thought it is possible I wrote it on some piece of wood, but now, after thinking, this inside of the closet it was impossible to write, there is no question.

Q. You thought it was possible for you that maybe you wrote Dr. Condon's number and address some place, but when you thought about the closet and how impossible it was to write in there, then you decided you didn't write it? A. I didn't write it; I really can't remember ever writing on it.

Q. You can't remember ever writing it? A. No.

Q. But you just said, did you not, that you thought maybe you would write it somewhere, but when you thought about writing it in the closet you knew you couldn't get in there, so you didn't write it: is that what you mean? A. That's not exactly what I mean.

Q. To what other extent was it that you were mistaken in your sworn testimony in The Bronx? A. I never got interest in Dr. Condon.

Q. When you said that this is Lindbergh money in answer to Foley's question, when you answered the same question before Supreme Court Justice Hammer and the Court said to you, "Do you understand the question," and you said "Yes," what did you mean? A. What was the question?

Q. "Is this Lindbergh money?" The extra money, the last money that was found. A. I said Yes.

Q. Why did you say yes, it was Lindbergh money? A. Because them eight hundred dollar came from the same shoebox. If the $40,000 is ransom money, the rest from $800 would be the same,—that's common sense.

Q. What else did you mean when you said that you only stand on your sworn testimony in The Bronx to a certain extent? Anything else besides the board? A. I guess it is only the board.

Q. How about March the 1st? Didn't you testify there that you were working on March the 1st? A. No.

Q. Didn't you? A. I said—

Q. Did you say you were working on March the 1st?

Mr. Reilly: Let him answer.

Mr. Wilentz: He has answered.

Mr. Reilly: No, he hasn't answered enough.

The Court: Let him answer.

A. I said that it is just another question—I said first March I am not quite sure if I was working or not. If I was working I was working in the Majestic Apartments. If not, I was down in my employment agency because I couldn't remember this time where I have been.

Q. When you were arrested did you say you were working March 1st? A. My first impression was—

Q. That is what you said, wasn't it? A. —was I was working.

Q. Didn't you say in The Bronx that you started to work March the 15th? A. That is what I said here, 15th or 16th.

Q. Did you say in The Bronx court that you started working in the Majestic March 15th? A. I can't remember if I said yes or no.

Q. Did you say anything about a conversation

between you and the employment manager telling you on March 1st to come back the 15th: did you say anything in The Bronx about that? A. I guess I said but I don't know what I said.

Q. Well, you didn't know then that the employment manager told you to come back the 15th, did you? You said nothing about it in The Bronx, did you? A. Well, listen, when I came back from Majestic, right away I went to the employment agency to try to get them $10 back.

Q. When did you leave the tools there? A. The tools?

Q. Yes. A. I took it up next day.

Q. Before March the 1st? A. After.

Q. Didn't you testify here that you took the tools up there before the 1st of March? A. You said when I took it back.

Q. When you took the tools up. A. Up? What you mean by up?

Q. Up to the Majestic. A. Oh, that is a Monday.

Q. Before March the 1st? A. Yes.

Q. You took them up on Monday, the day before the kidnaping? A. The day before I was supposed to work.

Q. And you took the tools up there as the alibi for March the 1st, didn't you? A. No, sir.

Q. You did take them up the day before the kidnaping? A. Because I was supposed to start on the 1st of March and I—

Q. So you— A. —and I couldn't take the car down there, because too much traffic, so I sharpened the tools in the morning of the last of February, 29th, took the tools down to the Majestic and went home again.

Q. Did you take them home with you? A. Well, I left it down.

Q. You left it there until the 15th of March? A. No, sir.

Q. Till when? A. Wednesday, the day after.
Q. Wednesday? A. Yes.
Q. The day after the kidnaping? A. Because what is the use to lay, to have the tools down in the Majestic? I couldn't start 'fore the 15th, I know it.
Q. You quit your work the day the $50,000 was paid, didn't you, April the 2nd, 1932?

Mr. Reilly: I object to the form of the question. Let's leave out "The day the 50,000 was paid," and put a date. He left his work on April 1st, 2nd, or 3rd, whatever he wants to ask, but I object to this "You left your work the day of the kidnaping," and "You took your job back on the day the ransom money was paid."
It is improper.

Mr. Pope: He has answered it seven times.

Mr. Reilly: It has been answered at least twenty times here. I assume we are working up to a climax. I think the form is bad.

The Court: I think the form of the question is a little bit unnecessary.

Mr. Wilentz: I withdraw the question if that is your Honor's thought about it.

By Mr. Wilentz:

Q. To what extent didn't you tell the truth to District Attorney Foley. You have testified here that you are willing to stand on your statements

to District Attorney Foley to a certain extent. What do you mean by that?

Mr. Reilly: I object to this. It has been answered three times.

Mr. Wilentz: No, sir, it has not, I respectfully submit.

Mr. Reilly: I was answered yesterday afternoon, it was answered here this morning and it is answered here now.

The Court: My impression is the witness has already answered this question, but if the Attorney General has any doubt about it he may put the question again. Answer the question.

By Mr. Wilentz:

Q. What did you mean when you testified here that you were willing to stand upon your statements to District Attorney Foley only to a certain extent? A. With reference to this board here.

Q. Is that the only extent? A. Yes.

Q. You told Mr. Foley, did you not, that you never were arrested in Germany?

Mr. Reilly: I object to that.

Q. Didn't you? A. No, sir.

Mr. Reilly: Mr. Foley had no right to ask him any such question.

The Court: I will have to sustain that objection.

Mr. Wilentz: I understood counsel asked a question in that regard.

Mr. Reilly: Oh, no.

The Court: I didn't hear counsel ask such a question.

Mr. Reilly: I asked him the question was he convicted.

The Court: The question should be limited to conviction.

Q. You told District Attorney Foley that you had never been convicted in Europe, didn't you? A. Yes.

Q. And that wasn't the truth either, was it?

Mr. Reilly: I object to that. He was under no obligation to disclose any of his past record to District Attorney Foley who did not have him under oath; he was under arrest. He didn't have to testify to anything, nor did he have to disclose any trouble that he had been in before in the form of a conviction.

Mr. Wilentz: It is rather a novel situation where a man can proceed and make statements that are not the truth when he is being interrogated and say that he didn't have to tell the truth.

Mr. Reilly: No, all the states and the laws of the country say you do not have to testify—

Mr. Wilentz: I disagree with you.

The Court: Gentlemen, let us proceed in an orderly manner. I think we can get along without very much excitement. It is competent in this Court for the Attorney General to prove conviction in Germany.

Mr. Reilly: That is true. But the question is whether Mr. Foley asked him—

The Court: That I have excluded.

Mr. Wilentz: The question I am asking is with reference to his statement here, that he told District Attorney Foley the truth to a certain extent and he limits that certain extent to testimony with reference to the board. Now I am asking him "Didn't you tell District Attorney Foley that you were not convicted in Germany? and his answer was Yes. Now my question is to him, and that wasn't the truth.

The Court: You may ask him if he fact he was convicted in Germany. You may put it in that form.

Q. When you told District Attorney Foley that you had not been convicted in Germany, at that time in fact you had been convicted in Germany, isn't that the fact? A. Yes, but—

Q. Never mind the but. A. When I said—

Mr. Wilentz: I submit, if your Honor please, he has answered it. I don't think he has got to give an alibi with each answer.

The Witness: This case was overruled in the record.

The Court: One moment.

Mr. Wilentz: He has answered Yes.

The Court: Did he answer Yes.

Mr. Wilentz: Yes. He wanted to put a but on there.

The Court: Let it stand.

The Witness: It was fifteen years ago and overruled.

Mr. Wilentz: Just a minute now, just a minute.

The Court: One moment. Your counsel will give you a chance to talk, if you want to explain anything.

Mr. Wilentz: Take the witness.

(Confusion in the court room.)

The Court: The people will have to keep quiet. Otherwise we will have to clear out the court room. We have a half an hour yet to work and we can't work with people conversing among themselves in the audience. That ought to be perfectly plain to these people here. Now proceed.

Re-Direct Examination by Mr. Reilly:

Q. Now, when you were on the witness stand in the Bronx—

Mr. Peacock: What page, Mr. Reilly.

Mr. Reilly: 80.

Q. —you were asked concerning your pay checks. A. Yes.

Q. Correct. Now you have sat here in the court room and you have heard the time keeper from the Majestic Apartment testify that you did not work on April the 2nd. Is that correct? A. That is not correct. I was working on April the 2nd.

Q. You heard him say that, did you? A. I heared it.

Mr. Reilly: Now may I have the book again, please?

Mr. Wilentz: I think they have it right there. Captain Snook has it.

Q. And you saw them exhibit a book with the 2, April 2, in a circle, is that correct? A. I didn't see the book.

Q. Well, did you hear them say that his book indicated that you did not work on April 2nd? Is that right? A. That is what he said.

Q. Yes, that's what he said. And then you saw him handling this book, did you? A. Yes.

Q. And then you heard your counsel ask him whether or not he wouldn't point out in this book where in his records it showed that April the 2nd you, according to his record, did not work; is that correct? A. Yes.

Q. And then he point out, did he not, an item Richard Hauptmann, a check on April 1st, and a

circle on April 2nd, and a resignation, out 4-4, is that correct, April 4th, resignation, you heard him say that, didn't you? A. Yes.

Q. Now, of course April 1st is one day and April 2nd is a second day, isn't it? A. Yes.

Q. And you only got paid for the days that you worked, is that correct? A. Yes.

Mr. Reilly: Now I will call on the Attorney General for the original record, pay department of the Majestic Apartments, the payroll division.

Mr. Wilentz: Well, if we have them you can have them. You have got it, haven't you?

Mr. Reilly: No, you have the original. I have a photostat.

Mr. Wilentz: Well, we will use your photostat.

Mr. Reilly: Well, I offer in evidence the payroll, time record for the Majestic Apartments for the payroll ending April 15th, showing that this defendant, Richard Hauptmann, worked April 1st and April 2nd, and received $6.67 pay for both days.

Mr. Wilentz: Well, if you are offering them I have no objection to all the pay records.

The Court: No objection? It will be admitted.

The Reporter: Separately or as one exhibit.

Mr. Reilly: Separately.

The Reporter: D-41 and D-42 in evidence.

(Payroll records referred to received in evidence and marked Defendant's Exhibits D-41 and D-42.)

Mr. Reilly: And with your Honor's permission, I should like to show the jury now State's Exhibit 209 and Defendant's Exhibits 41 and 42.

Mr. Wilentz: Are those the payrolls for both periods?

Mr. Reilly: Yes.

Mr. Wilentz: Ending March the 1st and April the 15th? That is all right, here it is, both of them.

(The exhibits referred to were handed to the jury.)

Mr. Wilentz: Can we put a check alongside Mr. Hauptmann's name so they won't have to look for it?

Mr. Reilly: I did.

Mr. Wilentz: I mean on this one, too?

Mr. Reilly: Yes, surely.

The Court: Now, Mr. Reilly, haven't the jury pretty well looked over the exhibits?

By Mr. Reilly:

Q. Now, do you remember testifying in The Bronx when they asked you about the money, after you were brought in and they found the gold certificate on you, do you remember speaking to a man named O'Ryan that you didn't know whether he was a Police Commissioner or a detective because he wore no uniform? A. Yes.

Q. And do you remember you testified in The Bronx that when Commissioner O'Ryan asked you about any money that you had in your possession, you said to Commissioner O'Ryan, "There was another $14,000 in my garage"? A. Yes.

Q. And do you remember testifying in The Bronx that you told the Commissioner where the money was, it was in the south side of the garage, on the south wall? A. That's what—

Q. Remember that? A. That's what I said.

Q. Do you recall when the board was shown to you in The Bronx you were asked this question, bottom of page 83:

"And District Attorney Foley asked you if you recognized a certain piece of wood or lumber, do you remember that"? And you said "Yes."

Then do you recall: "So that when you looked at Exhibit A," which I assume was the piece of lumber, "which was presented to you by the District Attorney of Bronx County, and you looked at the handwriting thereon, you said that was your handwriting, isn't that so?" And your answer: "I said that is my lumber I could not make out the handwriting."

Is that right? A. Yes.
Q. And after two or three other questions—

Mr. Wilentz: Oh, now, just a minute, if your Honor please. The next two or three questions—

Mr. Reilly: I am reading—

Mr. Wilentz: Just a minute. Now the other two or three questions change that answer that I suggest—

The Court: Well—

Mr. Reilly: On re-direct, if the Court will permit me.

The Court: Yes.

Mr. Wilentz: All right.

Mr. Reilly: I am reading the questions that he omitted to read.

Mr. Wilentz: Oh, no, I read that.

The Court: Well, I do not know how this record that Mr. Reilly is reading from stands, I have never seen it, but I think that Mr. Reilly's question is permissible. Whether it will have to be amplified on further examination by the Attorney General, I, of course, cannot say, because I do not know what is in the paper, but I think Mr. Reilly is within his rights in asking this question.

By Mr. Reilly:

Q. You recall Mr. Wilentz asking you here on your cross examination as to your testimony in the Bronx concerning this board, don't you? A. Yes.

Q. And he said to you, "Didn't you say in the Bronx that the number on this board was there in your handwriting, and didn't you say in the Bronx, "yes," and you answered yes, here, didn't you? A. I can't remember.

Q. That you testified in the Bronx that way? A. I can't exactly remember my answer in the Bronx, what I said.

Q. Well, then—

Mr. Wilentz: May we have what his answer was here?

The Court: Yes.

Mr. Wilentz: Did he say "Yes" here?

Mr. Reilly: I recall he said "Yes" to your—

Mr. Wilentz: Ask him again.

Q. Did you say Yes here?

Mr. Reilly: I am going to do this—

Mr. Wilentz: May we just have an answer, please?

The Witness: Well, I can't remember.

Mr. Reilly: He says he can't remember.

The Court: He can't remember.

Mr. Reilly: Now, may I do this, so as to expedite this, so the jury will have everything before them: may I offer in evidence the question from this record of the Bronx Supreme Court, with the exception of Mr. Wilentz, the Court's admonition there to Mr. Wilentz about when anything is shown to the witness it should be marked for identification, because that was following a question which was not answered.

Mr. Wilentz: Yes.

Mr. Reilly: I want to introduce the questions and answers of this defendant at the Bronx hearing covering that portion of the wood testimony, four or five questions.

Mr. Wilentz: Every question with reference to that wood, we consent to their admission in the record in any form that counsel suggests, all of them though.

Mr. Reilly: Then may I read them now, all of them?

The Court: Yes.

Mr. Reilly: And you follow me.

Mr. Wilentz: I will, sir, or try to.

Mr. Peacock: What page is it?

Mr. Reilly: I am only asking you to follow me in this book. Page 83, and we will begin as follows:

"Q. And District Attorney Foley asked you if you recognized a certain piece of wood or lumber, do you remember that? A. Yes.

"Q. So that when you looked at Exhibit A, which was presented by you by the District Attorney of Bronx County, and you looked at the handwriting thereon, you said that was your handwriting, isn't that so? A. I said that is my lumber I could not make out the handwriting.

"Q. You said the number on there is your handwriting? A. Yes.

"Q. What about the 'Decatur'? A. I could not make out whether that is my handwriting and numbers.

"Q. The numbers are in your handwriting, are they not? A. They are.

"Q. But the other writing, you are not sure of? A. I could not make out.

"Q. You would not say it was not your handwriting, would you? A. I would not say exactly, no."

Q. Now we will come down to your testimony in the Bronx as to whether you worked March the 1st or not. There was some doubt in your mind, wasn't there, in the Bronx as to whether you did work March the 1st in the Majestic Apartments or somewhere else or were looking for work; is that correct? A. It was. If it wouldn't be so long ago I would probably have 10 to 20 witnesses that I worked.

Mr. Wilentz: I move that that be stricken out, if the Court please.

The Court: Yes, we will have to strike that out.

(To the witness:) Mr. Hauptmann, your counsel will probably make inquiry of you—

The Witness: Excuse me, your Honor.

The Court: —of all matters that you ought to speak about.

The Witness: Excuse me, your Honor.

The Court: Yes. You had better keep quiet.

Mr. Reilly: May I let that go until tomorrow morning, that part?

Q. Now, when Fisch and you first decided to go into business, did Fisch tell you that he was interested in the Knickerbocker Pie Baking Company? A. He said he is one of the founders.

Q. Did he say the business was still being carried on? A. He said the business if very fair and he said his investment is $10,000.

Q. And you relied on that, didn't you? A. Yes, I did.

Q. Did you find out after he died that the pie baking company folded up, went out of business two years before he told you that? A. I find it out after I start.

Q. Yes, that two years before he told you the pie baking company was making money, it folded up into bankruptcy, is that right? A. That is right.

Q. So he lied to you there, didn't he? A. Yes.

Mr. Wilentz: I move that be stricken out. First I object to the question and the answer.

Mr. Reilly: Well, you have been asking this man whether he lied or not.

Mr. Wilentz: Mr. Fisch is not the defendant and he is not charged with the murder of the Lindbergh child, and this is a collateral transaction about something that has nothing to do with this case, and whether Mr. Fisch told him about a Knickerbocker Company is not an issue in this case; the question is about the stocks and bonds between him and Fisch. Is it contended that he is an interested party in the Knickerbocker? Is it contended that he invested any money with Fisch there? No, it is not. There is no connection between any such Knickerbocker Company and the other gentleman with reference to this case, and there is no testimony about that.

Mr. Reilly: This witness relied on Fisch's representations when he went into business and relied upon them when he wrote that letter to the dead man's family, but after that, as he testified here, he found out that Fisch had lied to him about that, lied about the money he had borrowed, very likely lied about the furs. Now he has to explain the letter.

The Court: This pie baking company transaction was gone into on his cross examination; so also these furs of course are

implicated both on the direct examination and on the cross examination.

Mr. Wilentz: Whether Fisch lied to him, your Honor please, is a conclusion on his part and is objectionable, I submit.

Mr. Reilly: He relied on his business honor and probity.

The Court: Now Mr. Reilly has inquired whether or not Fisch said certain things to him about the pie business.

Mr. Wilentz: He has answered that.

The Court: He has answered that.

Mr. Wilentz: But I object to this witness characterizing the statement of somebody else.

The Court: Now Mr. Reilly followed that by a question as to whether or not he had afterwards ascertained that this pie company folded up and went bankrupt and that was answered, wasn't it?

Mr. Wilentz: That's right.

The Court: Now the further question is whether or not Fisch lied to him.

Mr. Wilentz: Yes, and that I object to because that is his characterization and his conclusion.

The Court: Well. I am inclined to think that I will have to sustain the objection.

Q. Fisch didn't tell you the truth, did he?

Mr. Wilentz: I object to that as calling for a conclusion.

The Court: Well, you see you have got the facts in the case, Mr. Reilly. Now, what is the use of having the witness characterize it?

Mr. Reilly: All right, we will leave it to the jury as to whether he misstated it or didn't tell the truth or what it was.

Q. Now, did he tell you also when you went into business with him that he had borrowed thousands of dollars from Mrs. Hite, I think her name was? A. Mrs. Hille.

Q. Yes. Did he tell you that? A. He did not.

Q. After he died you found out he owed her money, is that correct? A. Yes.

Q. Now, you didn't consider it a crime, did you, to keep some of your financial transactions away from your wife's knowledge, did you? A. No, I guess there isn't any crime about it—

Mr. Wilentz: The question has been answered.

Q. Because Isidor lived in one room, you don't know whether he maintained an apartment somewhere else, do you? A. I don't know.

Q. Now, did you have some letters in your home from Fisch to you at the time of your arrest? A. Yes, and I wish you would produce it in the court here.

Mr. Reilly: Well, I guess the Attorney General will produce them.

Mr. Wilentz: We will produce whatever letters there are from Fisch.

Q. Do you know who took them? A. I don't know, but I suppose the police took them.

Mr. Reilly: May we suspend until tomorrow morning? In the meantime the Attorney General will try to get those letters from Fisch.

The Court: One moment. We are going to take a recess until tomorrow morning at ten o'clock, but we want everybody to remain where they are in the courtroom. Nobody must stir now until the jury have a chance to retire. The jury may retire.

(At 4:29 p. m. the jury retired from the courtroom.)

The Court: Now the defendant may retire in the custody of the Sheriff.

(Defendant retired in custody of Sheriff.)

The Court: Now we will take a recess until ten o'clock tomorrow morning. The audience may leave.

(At 4:31 p. m. an adjournment was taken until tomorrow morning, Wednesday, January 30, 1935, at ten o'clock.)

Opening of Twenty-first Day

STATE vs. HAUPTMANN

Flemington, N. J., January 30, 1935.

TWENTY-FIRST DAY

Present:

Hon. Thomas W. Trenchard.

Appearances:

Mr. Wilentz,
Mr. Lanigan,
Mr. Peacock,
Mr. Large,
Mr. Hauck,
For the State.

Mr. Reilly,
Mr. Fisher,
Mr. Pope,
Mr. Rosecrans,
For the Defendant.

———

(10.02 a. m.)

(The jury was polled and all jurors answered present.)

The Court: The defendant may resume the stand.

BRUNO RICHARD HAUPTMANN resumed the witness stand.

Re-Direct Examination by Mr. Reilly (continued):

Q. You testified in The Bronx, didn't you, that during March, 1932, you went down to the Hotel Majestic to see if they had some work for you, or the Majestic Apartments, rather? A. Yes.

Q. And did you for a week or two before the 1st of March go down to the Majestic Apartments to see if they had any work for you? A. I went down to the agency, Sixth Avenue.

Q. That was, what agency was it? A. I guess Reliable, or Liable.

Q. Did the agency send you to the hotel, or to the apartment? A. Yes, it was on February 27th, it was on Saturday. That means I got a letter from the agency to start on March the 1st.

Q. Are you right-handed or left-handed? A. Right handed.

Q. Now, there was something said here yesterday about that trunk that you kept the money in and you said at one time the trunk was broken: is that correct? A. Yes.

Q. When was it broken? A. Oh, this was '33. I didn't have any money in there any more then.

Q. Do you recall the month? A. Please?

Q. Do you recall the month that you saw it was first broken? A. No, I can't.

Q. Was there at any time anything improper between you and Mrs. Henckle? A. Nothing.

Mr. Reilly: Mr. Attorney General, have you the Fisch letters?

Mr. Wilentz: We only have one postcard. Captain Snook, will you give Mr. Reilly the postcard.

Mr. Reilly: While the captain is getting the postal card—

Q. The Attorney General asked you whether or not since you have been in jail you obtained the use of a German-American dictionary, is that correct? A. That's correct.

Q. When did you get it? A. When?

Q. When, yes. A. About two months ago.

Q. For what purpose did you get it? A. I only read English books in here and some of the books I can't understand, so that's the reason I was asking for a dictionary.

Q. Do you recall some of the books you have read since you have been in jail? A. Yes.

Q. Give us the names of some of the books you have read? A. Life of Lincoln, and ancient history.

Q. Ancient history? A. Yes; and stories from Canada, and South and North Pole expedition. That's a few of them.

Q. How many letters did you receive from Mr. Isidor Fisch after he sailed back to Germany? A. Letters and postal cards I will say around six to eight.

Q. Well, how many letters? A. About four letters.

Q. Were those letters in your house when you were arrested? A. There was— When I say six to eight that means from Isidor Fisch.

Q. Yes. That is what I am talking about, Isidor. A. Yes, I guess them letters was in our house, but them letters Isidor Fisch brother sent me. They was in my house.

Q. Well, do you know where the letters from Isidor to you,—where were they if you know, at the time of your arrest? A. I don't know.

Q. You don't know whether they were in the

house or not? A. I don't know that. But I am sure about them other letters from his brother because I keep the record of it.

Q. Well, then you are not able to place in your mind, are you, just where the letters from Isidor Fisch to you are at the present time? A. No, I don't know.

Q. Do you remember the contents of the letters? A. Yes.

Q. Now, referring to the first letter that you received from Isidor after he went back to Europe in December, 1933, will you give us your best recollection of what he said in that first letter? A. In his first letter he didn't say anything particular; it was only about his trip and that he is well, and only little things, nothing important.

Q. Did you write to him then? A. Yes.

Q. Was that one of the letters— Well, there was no letter produced. What did you write to him in answer to his first letter? A. I guess I only wrote on a card.

Q. Postal card? A. Yes, the first letter.

Q. Do you recall the second communication you received from Isidor: was it a letter or was it a card? A. It was a card, the second, then I guess there was another card before the first letter.

Q. I show you a card which is produced by the Attorney General and ask you whether or not that is in the handwriting of Isidor Fisch. A. Oh, that is Fisch's handwriting.

Q. Was that card received by you? A. Yes, it was.

Q. About when? A. Oh, I can't remember that, the date was the same.

Q. Well, the stamp appears to be Leipzig and the 20th or 21st of January, doesn't it—1/20/21? A. No, that means 8th of January, 1934. I figure

probably I received this postal card around ten days later, around the 18th, 17th or 18th.

Mr. Reilly: Any objection to my offering this in evidence?

Mr. Wilentz: No, certainly not.

Mr. Reilly: I offer it in evidence. There is no objection from the Attorney General.

(The post-card was received in evidence and marked Defendant's Exhibit D-43.)

Q. Now, will you read this or translate this German for us into English? A. "I received your card. Am very glad you got a nice Christmas time. I read about the weather in New York. The cold weather in Germany is—the cold in Germany is not so strong any more. In next time I write you a letter. Best regards to Annie and Baby. Isidor."

Q. Now the next communication, was it a card or a letter? A. It was a letter.

Q. Do you remember what he wrote? A. He wrote about his case—

Mr. Wilentz: Just a minute.

A. —he had laying over here and he said in this letter—

Mr. Wilentz: No, if your Honor please, I object to it as not being the best evidence. I think that it is hearsay, if your Honor please, and I object to his mere statement that there was a letter as being a basis for an excuse for present testimony.

Mr. Reilly: I think we have established that the letters were received, he received them, they were in his house, he doesn't know what happened to them, they have disappeared, either through something he did or something that somebody did when they arrested him. I think it lays a foundation for the introduction of secondary evidence as to the letters inasmuch as the Attorney General on his cross examination directed his attention to letters that passed between Fisch and himself and letters that afterwards passed between the Fisch family and himself.

Mr. Wilentz: There is no testimony, there was no question directed to him as to letters between himself and Isidor Fisch while Fisch was in Europe, not a question. This is not proper re-direct; it is an entirely new matter, if your Honor please, not touched upon at all by the State. The fact is we couldn't have touched upon it because we had no knowledge or information that there were any such letters; and that I wouldn't object to so much except, if your Honor please, while I urge it as a basis for my objection it seems to me to be an improper way of trying to take from the lips of a dead man statements that your Honor can very readily see are impossible of answer. He will now attempt to reveal something that he says was contained in a letter from a person who is now dead, a letter which is, if it existed at all, missing, and which, if your Honor please opens the door wide to the statement of anything at all, without any ability at

all or any possibility on the part of the State to meet it.

Now, it is entirely new matter; it is not proper re-direct examination and, while ordinarily, I should hate to make any objection on that score because defense counsel particularly has not interposed any technical objections, I only do it because of the very serious nature of the effort being made at this time.

The Court: I wish counsel would state to me what it is, here at the side bar.

(Counsel conferred with the Court out of the hearing of the jury.)

By Mr. Reilly:

Q. Now I shall only direct your attention in the letter your received from Fisch along two lines, and ask you whether in any of the letters Fisch sent to you he spoke about the skins, the furs: did he? A. Yes. I guess in all of them.

Q. Well now, just tell us without picking out any particular letter, if you can, just what he said to you in his letters about the furs, everything he said about the furs until you learned he died. A. The debts I guess from Mr. Fisch it was about the furs, he only wrote me he had advanced in price about 20 to 25 per cent. In coming back to the letter, I am not—

Q. No, we just want about the furs at the present time. A. Yes.

Q. Now, so that there was a continuous correspondence between you and Fisch about the furs? A. Yes.

Q. Is that correct? Now I direct your attention

to another angle in the letters. Was there anything said by Fisch about any stock profits or anything like that that was remaining? A. He was, in every letter he was asking me how were the stocks and in one letter I told him I got to sell his thousand Eitingon-Schild.

Q. So there was continuous correspondence about the furs and stocks while he was in Europe before his death, is that correct? A. Yes.

The Witness: May I speak about them two letters I received?

The Court: No, you may answer the questions which you are ordered to.

Q. I show you this item in your book, State's Exhibit 259, and ask you what that is, what that word is. A. "Boat."

Q. How do you spell it? A. B-o-a-t.

Q. Now, is it not a fact that the German "t" is not like the American "t" or the English "t?" A. That is, that is different from the English "t."

Q. This word in here written by you is b-o-a-t, isn't it as you say? A. Yes.

Q. Now will you tell us again, please, when was it that President Roosevelt, when was the last day of President Roosevelt's gold surrender, when you think it was, or when do you say it was: the last day people could surrender gold certificates under the order of the President? A. My best recollection is March '33.

Q. And about that time you turned in that $750. A. Yes.

Q. So that in August, 1934, when this box of money, gold money, was discovered by you it was many months after the President had called in gold, is that correct? A. Yes.

Q. Did you know that if any Government questionnaire was handed you to be filled out concerning your residence in the United States or any particulars about your citizenship that you could be picked up as an alien improperly in the United States? A. Will you say it again in—

Q. Did you know that if you had to fill out any questionnaire, question blank, about any gold or about anything else for the Government in which they inquired as to your citizenship or residence in the United States and you disclosed that you were here illegally you could be sent back to Germany? Did you know that? A. I know that.

Q. Now, after you found this money in the shoe box and took it out in the garage to dry, you passed about ten or twelve bills: is that correct? A. Twelve to fifteen.

Q. Twelve to fifteen. And during what period were you passing those bills? A. From the day I found it till my arrest.

Q. A little over a month, is that right? A. Yes.

Q. During that time you always had the same license plate on your car, didn't you? A. Always.

Q. You always lived in the same house, didn't you? A. Yes.

Q. You didn't run away, did you? A. No.

Q. You didn't change your license plate? A. No.

Q. You didn't change your name? A. No.

Q. You didn't wear a disguise when you tried to pass these bills, or did pass them? A. No.

Q. You brought your wife into a shoe store, did you, and bought a pair of shoes for her? A. Yes.

Q. So that everything you did with the ten or twelve bills that you had for a month you did openly, didn't you? A. Yes.

Mr. Wilentz: I move that the word

"openly" be stricken. I object to the question with the word "openly;" that is calling for a conclusion, if your Honor please.

Mr. Reilly: I will—

The Court: Well, I don't think that I will exclude that.

Mr. Wilentz: All right, if your Honor please.

The Court: He seems to have testified to what he means by the word "openly."

Q. And when the man at the gas station asked you something about the bill, you didn't make any effort, did you, to hide your license plates? A. No effort at all to hide anything.

Q. And again I ask you; did one dollar of the Lindbergh—what we now call the Lindbergh ransom money, to identify it, did one dollar of that money pass into your brokerage accounts? A. Not one dollar. In the time I passed the money—

Mr. Wilentz: Just a minute now, you have answered the question.

Q. Did you know that Uhlig and Fisch had an apartment somewhere in another part of New York? A. I did not.

Q. Now, when you wrote to Isidor's brother, I think it was, and you said the words "private bank account," will you explain just what you meant by that? A. I only wrote private bank account, it was $5500, to make it more short and

clearly, so I used the word "private bank account."

Q. You didn't have any private bank account by savings bank or check account, did you? A. No.

Q. You had a private bookkeeping account and you designated, did you, your transactions with Isidor and yourself by saying "private bank account"? A. Yes, I got a little bank, but it amounts only to a few hundred dollars.

Q. Now, in your letter to Isidor's brother, I think you used the words as translated "we share the profits and the loss," is that correct? A. Yes.

Q. But, you did not say in the letter did you, "we share the profits and the loss fifty-fifty," did you? A. I didn't say that in a letter?

Q. You used the words, didn't you "we share the profits and the loss?" A. Yes.

Q. But you did not use the words "fifty-fifty" did you? A. No, half and half I used.

Q. Did you use half and half before the contract, the new contract of which you spoke that you were going to enter into with Isidor when he came back to this country?

Mr. Wilentz: Just a minute, I object to the question because the letter speaks for itself, as to what he used I have no objection to reading the letter.

The Court: Of course, the letter does speak for itself.

Mr. Wilentz: Yes.

The Court: But, you see, counsel is now asking as to the facts.

Mr. Wilentz: No, he is asking as to the letter.

The Court: Oh, as to the letter?

Mr. Wilentz: I have no objection to the question as to the fact. I have as to the letter.

The Court: Yes. Mr. Reilly, I was pointing out to the Attorney General that the letter does speak for itself.

Mr. Reilly: Yes.

The Court: But as I conceive it at the moment, there is no objection to your examining him as to the actual facts regardless of what was in the letter.

By Mr. Reilly:

Q. Well, I direct the question to you, Mr. Defendant, because at one time in your testimony you said that there was some arrangement concerning a 20 per cent? A. Yes.

Q. Now, what transactions, if you can recall, covered a 20 per cent relation to Isidor? A. 20 per cent in stock transactions didn't get in effect.

Q. Didn't get in effect? A. No. It was proposed, but after one day or two days he changed it.

Q. Well, when was it proposed? A. Summertime, '33. I can't recall the month.

Q. And then after two or three days Isidor said he didn't want it any more: is that what you testified to? A. That's what he said.

Q. Now, they have brought into court here and exhibited, and made an exhibit, a large plane.

Mr. Reilly: Do you know the number?

The Reporter: S-177.

Q. Is this your plane? A. That's my plane.

Q. Now, before your arrest, how long before your arrest had you used this plane? A. This plane was never used since '28.

Q. Had it ever been sharpened since 1928? A. No.

Q. Where was it in the garage? A. It was on the rear shelf, on a shelf on the rear wall of the garage.

Q. And had not been used? A. May I see it, please?

Q. Surely. A. (The witness removed the blade from the plane, examined it, and replaced it.)

Q. And you had not used it since 1928? A. No. There are two other planes in here, iron planes. This one, because it isn't good at all—one I keep always on the job where I was working, and one iron plane I kept home, for home work.

Q. The two planes you refer to now are in this box? A. Yes.

Q. 196? A. Two iron planes like that.

Q. Will you come down, please, and show us those planes.

(Witness opens box.)

A. It doesn't seem in here at all they are big planes like that (indicating), he didn't get it in.

Q. And the planes you refer to are not in the box? A. Not in the box, two iron planes, big planes as long as that (indicating).

Q. About the same size as 177? A. Yes, 16, 18 inch long.

Q. All right, go back on the stand. (Witness

closes the box and resumes the stand.) Now, when did you last see the planes you have spoken of? A. Oh, I really can't remember when I saw it last.

Q. Well, this 177 is a very cheap plane, isn't it, that wooden one? A. I guess the cheapest you can buy.

Q. About how much? A. I can't remember what I paid. I figure around two dollars.

Q. The other planes were better planes, the iron planes? A. Yes, standard.

Q. And you used one you say on the job and one you had home? A. Yes.

Q. Are there any of your chisels missing from this box, do you know? A. I have to look the tool box over.

Q. Do you want to look it over? A. Yes. (Witness steps down off witness stand and examines tool box.) There are three Stanley chisels missing, them chisels they are no good at all, they were laying in the garage. That is the chisels I bought first when I started carpenter over here.

Mr. Wilentz: Is the question answered, Mr. Reilly?

Mr. Reilly: He says there are three chisels missing. I will get him to put these back and he will go back on the stand.

Mr. Wilentz: All right.

Mr. Reilly: I will hold these things then. You go back.

Mr. Wilentz: I think if he left the box open, if we needed it—

Mr. Reilly: All right.

(Witness resumes the witness stand.)

By Mr. Reilly:

Q. Now, you have indicated that you wanted to say something about these three chisels. What did you want to say about part of this exhibit, the tool box? A. Then two chisels, this one and this one—

Q. The larger— A. That is very old chisels. They are probably at least ten years old. There was another set of chisel, it was a standard, Stanley set, good chisels—was a half inch, three-quarter inch, and one inch, but I see it disappeared.

Q. When did you see them last in that box? A. I would say a couple days before I get arrested.

Mr. Reilly: Now, may I have the book that had the sketch in it?

Q. The Attorney General has offered in evidence a book, 261 for the State, and showed you a picture of something that bears an "x;" is that your drawing? A. No, it is not my drawing.

Mr. Wilentz: Just a minute. All right, it is answered.

Q. And yesterday I think it was marked—did you mark it with an "x"?

Mr. Wilentz: He marked it with an "x."

Mr. Reilly: So that, your Honor, if I may interrupt you, it will be fresh in the minds of the jury when this 261 goes to them, it bears some kind of a drawing with

an "x" that was marked yesterday during the Attorney General's cross examination of the defendant, and it was then said by him that it was not his. And to indicate it was not his the Attorney General had him mark this page with an "x." That is not his.

Mr. Wilentz: That is true. Also as to any other pages he marked with that kind of an "x." That indicates that is not the product of his hand.

Mr. Reilly: So that when they come to examine it they will undoubtedly remember that that marked with an X is not his drawing.

The Court: Yes, yes.

Re-Cross Examination by Mr. Wilentz:

Mr. Wilentz: May I have the employment record?

Q. While we are waiting for the employment record that was introduced, you remember the ten dollar bill, the ten dollar ransom bill that you passed down at Boccanfusco's down at 89th Street, the vegetable store? Do you remember that? A. I know I passed a bill down there.

Q. 89th Street? A. (No answer.)

Q. Well somewhere down there, isn't it? A. Yes.

Q. And what did you buy there? A. Vegetables.

Q. Vegetables. How much vegetables did you buy? A. I can't remember any more.

Q. Well, it was ten cents worth, wasn't it? A. No.

Q. Was it a half a dollar's worth? A. It was close to a dollar, I guess.

Q. Close to a dollar. Around 89th Street, or 86th Street, somewhere down there? A. Yes.

Q. And you lived at 222nd Street? A. Yes.

Q. And you went down to 89th Street to do your wife's shopping, to buy vegetables? A. Absolutely not.

Q. Well you did buy vegetables there, didn't you? A. That's near to my office, where I have been the whole day.

Q. Yes. A. And some of my shopping—

Q. What office? A. Steiner, Rouse & Company.

Q. Yes. A. And some of my shopping I do around 86th Street.

Q. Yes. A. And some at White Plains Avenue.

Q. You did the shopping of vegetables for your wife at that time, didn't you? A. Since we have a child—

Q. No. Please answer the question. We will come to that. A. Since we have a child I mostly do all the shopping.

Q. You bought the vegetables? A. Yes.

Q. You didn't buy the vegetables up around your home, 222nd Street. You bought it down at 83rd Street or 86th Street. Is that right? A. Because it is cheaper.

Q. You bought it between one and two o'clock in the afternoon, didn't you? A. I can't remember the time.

Q. Don't you remember when the man was in there and you said Yes, that's the man I gave the bill to between one and two o'clock? A. There was no question about the time.

Q. There was no question. Well, will you say

what time it was? Was it at night? A. I fix the time—. I usually go out.

Q. What time do you fix it at? A. There are two times I fix it at—I go out for dinner around twelve o'clock.

Q. Yes. A. And then I go after three.

Q. Yes. A. Either one of them.

Q. Yes, so either one, two or around there, around three o'clock? A. Yes.

Q. And sometimes you would buy things between, during the noon hour, when you went out, is that right, and sometimes after three? A. Yes, depends how the market is.

Q. Yes. A. If it is slowly, I got time, I stay out a little while.

Q. Then you would buy something and go back again? A. I usually got my car parked right in front of this same vegetable store.

Q. Yes, and when you would buy things, food, when you would buy it around the noon hour, your noon hour, would you then take it home, or would you keep it at Steiner-Rouse until the end of the day? A. I put it right in the car.

Q. And leave it there? A. And leave it there.

Q. If you would buy it at noon you would leave it there? A. I leave it there.

Q. And at three o'clock your business day was over, wasn't it? A. Yes.

Q. That was the time the market closed? A. Yes.

Q. And then you would go home? A. Yes.

Q. You did all the shopping at that time, didn't you? A. I did all the shopping for the whole year since the baby was born.

Q. Yes, you did all the shopping? A. Not all, most of it.

Q. Most of it. You would buy vegetable, you

would buy food and you would buy other things, wouldn't you, for the house? A. Not always.

Q. Now, how far away is Jacobsen Brothers' place from your home? A. What is the name?

Q. The shoe store where you bought the box of shoes? A. Oh, that is quite a distance. This is—

Q. Five miles? A. No, I say—

Q. Four miles? A. I would say three miles.

Q. Three miles. A. Yes.

Q. How many shoe stores are there between there and this particular shoe store? A. Oh, there are plenty of shoe stores.

Q. Plenty of shoe stores. You gave them a twenty dollar bill when you bought the shoes, didn't you? A. I can't remember; twenty or ten.

Q. You don't remember whether it was a twenty or a ten?

Mr. Wilentz: Are the employment records available now? No, I don't mean that; Mr. Reilly's exhibit; Mr. Reilly's employment payroll.

Mr. Pope: The payroll.

Mr. Wilentz: Payroll exhibits.

Mr. Pope: Payroll exhibit.

(Mr. Reilly hands papers to Mr. Wilentz.)

By Mr. Wilentz:

Q. I want to show you Exhibit 41; first, I think I had better show you the earlier one, which is Exhibit 42 for the defense, and that purports to be a photostatic copy of the payroll, and you

see on top here painters, quite a number of painters. A. Yes.

Q. Then paperhangers? A. Yes.

Q. Then a great number of painters again. A. Yes.

Q. The days, the hours, the days, the hours, the rate of pay, and the name of the man, and the amount of the pay, and other remarks. A. Yes.

Q. You see that, don't you?

Q. Then the second page: Superintendent on top, then carpenters? A. Yes.

Q. Then handymen? A. Yes.

Q. Then porters, then painters again. That seems to complete that payroll. Now that is the payroll as you see for the week ending March the 31st, 1932? A. Yes.

Q. Now let's come to your name. There is a check there. Do you see your name? A. Yes.

Q. Richard Hauptmann? A. Yes.

Q. How many days does it say? A. It says eleven days.

Q. How much does it say for the rate of pay? A. It says hundred dollar.

Q. How much does it say you were paid? A. Thirty-six sixty-seven.

Q. Now take a look at the carpenter above, James Davie. How much is that rate of pay? A. 150.

Q. Lockhead, how much is that? A. Hundred.

Q. Allan Wilkinson? A. Hundred.

Q. Gustave Kassens? A. Hundred.

Q. Joseph Burnsides? A. Hundred.

Q. Richard Hauptmann? A. Hundred.

Q. Now let me get the next one. Now let's take the payroll record of the period or the week ending April 15th, it says. Now, that's the same sort of a payroll record, isn't it? I mean, it is the same thing only it is for April 15th. It gives

the superintendent, does it not, first? A. Yes.

Q. Then the stenographer? A. Yes.

Q. Then the carpenters? A. Yes.

Q. How many? One, two, three, four, five, six, seven, eight, nine, ten, eleven, twelve carpenters, isn't that right? A. Yes, but I never saw that much.

Q. Well, that's what the payroll record shows that your counsel offered in evidence, doesn't it? A. Yes.

Q. Then handy men. A. Yes.

Q. Then porters. A. Yes.

Q. Then handymen and porters again. A. Yes.

Q. Painter foreman. A. Yes.

Q. Time keeper? A. Yes.

Q. Do you see the name of the time keeper? A. Morton.

Q. Edward Morton? A. Yes.

Q. Do you remember him being on the stand? A. Well, I remember the time keeper was on the stand.

Q. Yes. A. I can't remember the name.

Q. You can't remember the name. All right. Then painter deputy. A. Yes.

Q. Then on the next page again painter deputy and painter and painters and paper hanger and grainer, and something like N.B. A. Yes.

Q. Now we will come to the days. Now we come to Richard Hauptmann. A. Yes.

Q. Under days it says 2 days, doesn't it? A. Two days.

Q. Yes, sir. Then the next— A. Wait a minute.

Q. Take your time. Now you can have it. A. Yes.

Q. Two days, is that right? A. Yes.

Q. Then the next entry is the rate of pay, a hundred dollars. A. Yes.

Q. The next is the name Richard Hauptmann. A. Yes, misspelled.

Q. Misspelled? A. Yes.

Q. How do you spell it? Another "n"? A. Another "n."

Q. I see. And the amount is $6.67? A. Yes.

Q. And then it says "resigned." A. Yes.

Q. Is that right? A. That is right.

Q. Now is there anything on here that shows you worked the 2nd of April? A. Well, it shows 2 days that I figure the 1st and the 2nd.

Q. Yes, but—. A. And that is the day I was working.

Q. I know, but that's your testimony; but there is nothing on this record that shows it is the 1st and 2nd or whether it is the 1st and 4th, is there, on this record? A. I don't know how they keep the record.

Q. Well, you see it. I mean you have seen it. A. I see there are 2 days.

Q. Yes. But it doesn't say which days, does it on the record? Take a look at it. A. Well, I—

Q. Take a look at it and when you are ready you answer the question. A. When it says "days" then I am positively sure it says the 1st and the 2nd.

Q. I know you are positively sure that it is the 1st and the 2nd, but what I am asking you now is whether that record shows that you worked the 1st and the 2nd, or does it just show 2 days in April? A. Well, I am not familiar with this record, how they keep it.

Q. I know you are not familiar with it, but you look at it, that's all you have got to do. A. (No answer.)

Q. Maybe I can help you become more familiar with it. Now we will take a look at the days again. A. Yes.

Q. You see, there are other people in the same column right ahead of yours; William Bowie, 5 days. A. Yes.

Q. And that doesn't tell what days he worked, does it? A. Just says 5 days.

Q. Five days. And underneath yourself is another man who gets credit for 10 days, isn't that right? A. Yes.

Q. Doesn't say what days, does it? A. I don't know.

Q. Well, you are looking at it now. A. Yes, but I don't know if it is the days from the 1st to the 10th, it doesn't say that.

Q. It doesn't say which days. A. No.

Q. It just says 10 days, isn't that right? A. But I figure—

Q. Now, please answer the question. We will let you figure a little later. You have testified that you worked the 1st and the 2nd. A. Yes.

Q. What I want to know now is not what you say but what the record shows as you see it. It says 2 days, but doesn't say which days, isn't that right? A. That's right.

Q. All right. Now, while you look at it will you tell us what the rate of pay is as shown on that page? A. A hundred dollar rate.

Q. Now, let's see. Oh, yes, you have already told us about the "resigned." A. Yes.

Q. All right, sir, thank you.

Q. Yesterday afternoon just before we adjourned Mr. Reilly started to ask you about this board and I think from his questions it was his impression that you answered here in court that "Yes, you did write the number." Now is that the fact that you did testify in this court that you did write the numbers but not the letters? A. In this court, no.

Q. You did not? A. I did not.

Q. That was in the Bronx Court?

Mr. Reilly: I think I was referring to the record in the Bronx in my question.

Mr. Wilentz: But I looked at it this morning and I thought maybe you were confused about it.

Q. What you meant then was that you did testify that in the Bronx but not here, is that right? A. I was—I mean for this court here—

Q. Yes, in this court you gave testimony of whatever the nature was, the jury will have to remember it, but in the Bronx you testified it was your handwriting, but not here, is that right? A. In the Bronx I don't know.

Q. Mr. Reilly read the record to you yesterday. A. Yes, but I was not sure always.

Q. When he was asking you, you weren't sure? A. (Shakes head.)

Q. You weren't sure yesterday when he was asking you? A. No, I mean in the Bronx.

Q. I do remember now that you answered his questions by saying "I don't remember."

Mr. Wilentz: Have we that record here?

Q. I will read you the question as I see it here: "By Mr. Reilly:

"Q. Do you recall when the board was shown to you in The Bronx you were asked this question, bottom of page 83," and then Mr. Reilly read the question:

" 'Q. And District Attorney Foley asked you if you recognized a certain piece of wood or lumber, do you remember that?' And you said 'Yes.'

"Then do you recall: 'So that when you looked

at Exhibit A,' "—that is that board, 226—" 'which I assume was the piece of lumber which was presented to you by the District Attorney of Bronx County, and you looked at the handwriting thereon, you said that was your handwriting, isn't that so?' And you answer: 'I said that is my lumber, I could not make out the handwriting.' Is that right?"

And you answer— Now, yesterday Mr. Reilly said to you "Is that right?" And your answer is "Yes."

Q. Is it still yes? A. When he was asking me about if it is my lumber?

Q. Yes. You said it was your lumber, and did you yesterday say again "Yes?" A. This "Yes" was the "Yes" I said in The Bronx.

Q. Well, did you say "Yes" that it was your lumber in The Bronx? A. I said "Yes, this is my lumber," in The Bronx.

Q. That was your answer? A. In The Bronx.

Q. Is it your lumber? A. I can't prove it if it is my lumber or not.

Q. I don't want you to prove it. You said in the Bronx it was your lumber. Now, you have a chance here today before the jury and the Court, if you want to say now it isn't your lumber, just say so; if you want to say it is your lumber just say so? A. It is a piece of trimming; in every house it is the same trimming.

Q. I know what it is. I want to know if it is your lumber, that is all. You said yes in the Bronx. Now, is it or isn't it? A. I can't say yes or no.

Q. All right, sir. A. This lumber—

Q. So that when you said yes in the Bronx,—why did you say yes when you did not know? You were a carpenter then, too, of years standing, weren't you? A. I didn't think. You could

show me a piece of lumber, in every house it is the same.

Q. In every house it is the same, eh? A. Practically.

Q. Every house it is the same. It hasn't got Condon's telephone number and address on it, though, has it? A. I don't know.

Q. In every house it is the same,—it hasn't got your handwriting on it either, has it? A. I don't think so.

Q. Certainly not. So this lumber was different than any other lumber, wasn't it? It had writing on it, isn't that so? Wasn't this lumber different in that it had some writing on it? A. No.

Q. Didn't you take a magnifying glass and look at it up there? A. Yes.

Q. So you saw there was a writing on it, didn't you? A. Yes.

Q. It was different than other boards then, wasn't it? A. No, I cannot say it was different.

Q. When you looked at this piece of wood—never mind looking over there, you answer the question. When you looked at this piece of wood, S-204—

Mr. Reilly: Oh, now, I object to that. The inference that he is looking over at us.

Mr. Wilentz: Not at you, not at counsel.

The Court: The Attorney General does not attribute any looking toward counsel.

Mr. Reilly: But your Honor doesn't—

The Court: I was saying that I see nothing objectionable in the examination in view of the Attorney General's explana-

tion, he has a right to direct the witness' attention to the board and not to other places.

Q. When this board was brought to you in the Bronx and you saw this piece of lumber you also were shown the writing on it, were you not?
10 A. Yes.

Mr. Reilly: Now, is this proper re-direct? It's been gone over seven or eight times. I didn't speak about any board in my re-direct. I just directed his attention to new things. Now we are having what we had yesterday, for thirty hours in cross examination about this board.

20 The Court: Well, I am inclined myself to think that the subject matter has been very thoroughly covered either upon the direct or the cross examination, but if the Attorney General thinks that the evidence of this witness is in a state of confusion with respect to certain particular things, he may ask the questions necessary to clear up that confusion and that, I assume, he is now trying to do.

30

Mr. Reilly: I didn't assume he was confused after all this examination.

The Court: Well, I don't know what is in the Attorney General's mind.

Q. When you were shown this piece of wood, S-204—I will only be another minute or two, your Honor please, and it is only because of my notions
40 of the importance of the matter that I am spend-

ing this time—I don't want to waste any time—when you were shown this piece of wood S-204 you were also given a magnifying glass and given an opportunity to look at the writing on there, weren't you? A. Yes.

Q. And when you saw this piece of wood with that writing on it you said, "That's my lumber." Isn't that so—in the Bronx. A. I did.

Q. You did. You couldn't tell that from just looking at the wood, you had to see the writing too, isn't that so? A. The first time when they showed this piece of lumber I didn't see the writing at all. They put a piece of lumber and said "Is that your lumber?" I said, "Yes," without thinking of anything.

Q. You don't usually do things without thinking. A. No, my physical condition was so bad this time I could hardly think.

Q. Your physical condition was so bad that time that it was easier for you to say Yes than No? A. No, I was not thinking at all.

Q. Well, I say, you weren't thinking. You have a very good mind, haven't you? A. Well, I don't think so, not so good.

Q. Oh, you really do think so, don't you? A. (No answer.)

Mr. Wilentz: That is all.

Mr. Reilly: Mrs. Hauptmann.

ANNA HAUPTMANN, sworn as a witness in behalf of the State (by the Defendant).

Direct Examination by Mr. Reilly:

Q. Mrs. Hauptmann, I am going to ask you to speak just as loudly as you can, because we all

want to hear you and you will have to overcome the noise in the courtroom, if possible. You are the wife of the defendant, is that correct? A. Yes, I am.

Q. When did you come to America? A. I landed the 1st of January, 1924.

Q. In New York? A. In New York, yes.

Q. And how soon after that did you go to work? A. Ten days after, I started the 10th of January.

Q. And for whom did you work? A. For Mrs. Rosetta Rosenbaum.

Q. Where did she live? A. 316 West 79th Street, New York City.

Mr. Reilly: Your Honor, I am obliged to ask you again, please, to ask the spectators back here in this corner to keep quiet, because I can't question Mrs. Hauptmann.

The Court: Yes. I think there are too many people standing there. I don't know just how they got in. Are those people that are standing there standing on seats, or how is it that they are standing?

Officer Huff: Standing on tables.

The Court: Standing on tables?

Officer Huff: They are sitting down.

The Court: Sitting down?

Officer Huff: These people right in here; and those are sitting on a radiator.

The Court: Well let them be taken out.

Let those people that are unable to find seats leave the courtroom.

A Voice: Your Honor, we have seats. These are press seats.

The Court: Press seats?

A Voice: Yes, sir; but in order to work better and get a better view, we have been sitting on the table rather than standing up.

The Court: Well, I am not directing my attention to you, but I see people standing up against the wall there. Now this condition will have to be corrected. Mr. Reilly is quite right in protesting that there is confusion here which usually arises in that part of the room where the people are crowded and standing. Now let the officers clear out those people that can't find seats.

We will take the time to do that, Mr. Reilly.

Let the officers ascertain what people are unable to find seats there and take them out.

Mr. Reilly: Let's have a five minute recess now.

The Court: Yes. We will have a five minute recess.

Mr. Wilentz: You may come down, Mrs. Hauptmann.

The Witness: All right.

(The witness left the witness stand.)

(At 11:09 a. m. a short recess was taken.)

(After recess 11:19 a. m.)

(The jury was polled and all jurors answered present.)

Mr. Reilly: Mrs. Hauptmann, will you resume the stand, please?

ANNA HAUPTMANN, resumed the stand.

Direct Examination (continued).

By Mr. Reilly:

Q. Your occupation when you came to the United States, was it general housework? A. Yes.

Q. How long did you work for the lady you told us about a minute ago, Mrs. Rosenbaum? A. I work from the 10th of January until the 10th of October, 1925.

Q. How long after you came to America did you meet the defendant? A. I was here about three months probably.

Q. When were you married? A. When? A. The 10th of October, 1925.

Q. In the City Hall, New York? A. Yes.

Q. How much did you make a month when you were working for Mrs. Rosenbaum? A. The first year I had fifty dollars a month and the second year I had fifty-five.

Q. When you married your husband what was his occupation? A. When I met him he worked in —I believe he worked as a mechanic for somebody in Brooklyn; and after, he worked as a carpenter.

Q. How much was he making a week when you married him? A. Before I was married to him?

Q. No, when you married him, at the time you married him. A. Oh, then he made good money, $66, I remember.

Q. Now, had you planned to go to some western state on your honeymoon? A. Yes, we had.

Q. Where were you going? A. We wanted to go to California.

Q. When did Mr. Hauptmann buy his first automobile? A. It was about two or three weeks, maybe four weeks, before we were married.

Q. Do you remember what kind of a car it was? A. It was a Chevrolet.

Q. Brand new? A. No.

Q. Or second hand? A. Second hand.

Q. Do you know how much he paid for it? A. I don't know; two or three hundred, or something.

Q. Now, shortly after you met Mr. Hauptmann did he say anything to you as to how he entered the country? A. He did.

Q. And as a result of that, did he give you his savings? A. He gave me once in a while, he gave me money and said I could put it on my name in my bank.

Q. Did you open an account at the Central Savings Bank, 79th Street and Broadway? A. Yes, I did.

Q. About when? A. This was a few months after I was in the country. I don't know exactly when it was. I believe in the summer, 1924.

Q. Then you continued to save your money? A. Yes.

Q. After you were married, where did you first live? A. We were, we lived in 155th or 157th Street near Broadway in New York for a short while, for two weeks, I believe.

Q. And then did you move to 109th Street and

Park Avenue? A. 119th and 120th, Park Avenue, yes.

Q. When did you move to Needham Avenue? A. This was 19—1926, a short time before Christmas.

Q. Needham Avenue is in the Bronx? A. Yes.

Q. When do you say you moved into the house you lived in at the time Richard was arrested? A. This was in 1931, after we came back from California.

Q. When did you go to California? A. We left in July, 1931, and we came back in October, 1931, the same year.

Q. On your trip to California were you accompanied by anyone? A. Yes.

Q. Who? A. Hans Kloeppenburg, our friend, went with us.

Q. How were the expenses shared? A. Well, we paid for our expenses and he paid for his.

Q. Now you also worked, did you not, in a bakery operated by a man named Wiletz. A. Yes.

Q. What did you do there? A. I worked as counter girl and waitress.

Q. Now, in 1929 did you work for Mrs. Achenbach? A. Yes, I did.

Q. Is that the woman who was on the stand here? A. Yes.

Q. And where was her place? A. It was 191st Street, I don't know exactly the number; it was near Third Avenue in New York.

Q. What was your salary there? A. Sixteen dollars and tips.

Q. And tips. Now, after you came back from California did you call on Mrs. Achenbach? A. Yes, the next day was a Sunday; I remember it well.

Q. What year? A. 1931.

Q. 1931? A. Yes.

Q. Now, she has testified here that in 1932, some time in March, you and your husband called at her house: is that true? A. That is not true.

Q. It was in 1931 that you called? A. It was 1931.

Q. After you came back from California? A. That is right.

Q. And did you bring back some souvenirs? A. Yes, we had lots of them.

Q. When did you go to Europe? A. The first time?

Q. Yes. A. In 1928, in July; no, June, we left in June.

Q. And did Mrs. Achenbach entrust her young daughter to you? A. Yes, I took her girl with me.

Q. How old was the child? A. She was nine, nine years old.

Q. And did Mrs. Achenbach pay any of the expenses of the child going over to Germany? A. She did.

Q. What did she pay? A. The trip going over she paid.

Q. She paid it. Well, did you have a round trip ticket for the child or a one-way ticket? A. No, it was round trip for both of us.

Q. But the child was then nine years of age? A. Yes.

Q. And how long did the child remain in Germany? A. About three months or three and a half months we were there.

Q. Now did you travel third class? A. Third class, yes.

Q. On a boat "New York" or "York"? A. York.

Q. York. Now when you landed at Bremen, what did you do with the Achenbach child? A. I had her with me and we went to a hotel, and

later on we had to go on a train and I brought her to her grandmother.

Q. And her grandmother lived where? A. In Ziegen, Ziegen. That is the town's name.

Q. Then you went on to visit your people, did you? A. Yes.

Q. Now, what month was it that you and the Achenbach child returned to America? A. We came back in October.

Q. And had the child passed its tenth birthday? A. Yes.

Q. And was there an added charge because of that? A. Yes.

Q. And how much was the added charge? A. I can't exactly remember the—how much it was, but it was around maybe $30. I can't exactly remember that.

Q. When you came back did you ask Mrs. Achenbach for the money that you had expended in bringing the child back? A. Oh, yes.

Q. And the money that was spent for the child? A. Sure, I asked.

Q. How much was it? A. It would be thirty, thirty-five— I don't remember that.

Q. $30 or $35? A. Maybe more, because I paid for the train too.

Q. Did she pay you or didn't she pay you? A. I did not get a dollar back yet.

Q. And did you and Mrs. Achenbach several times have words about the fact that she still owed you the money? A. We spoke about it in her place, in the bakery.

Q. So she still owes it to you? A. She does. Mr. Achenbach never paid me a dollar back.

Q. Now, when you were in Germany did you buy anything for your husband? A. I did.

Q. What? A. I bought a pair of field glasses for him.

Q. A pair of field glasses? A. Yes.

Q. You brought them home and presented them to him, did you? A. Yes.

Q. While you were in Germany did you visit your husband's people? A. Yes, I did, his mother.

Q. That was the first time you had met his mother? A. Yes.

Q. After you came back from Germany did you again go to work for Mrs. Achenbach? A. Yes, I did.

Q. And remained there until what month? A. I believe December.

Q. Came back in October and worked until December? A. Yes.

Q. You have never worked for her since? A. No.

Q. And she has never paid you the money since? A. I never get the money from her.

Q. Now the people that bought her business, you didn't work for them very long, did you? A. No, only maybe four or six weeks.

Q. When was it you began to work for Mrs. Fredericksen? A. This was in June, 1929.

Q. And Mrs. Fredericksen and Mr. Fredericksen had what kind of a store? A. It was bakery and lunch room.

Q. And your position there was what? A. Countergirl and waitress.

Q. What was your salary? A. $18 first and then later on twenty and tips.

Q. And did you save your money? A. Oh, yes.

Q. And did you put it in the bank? A. Yes.

Q. And did your husband save his money? A. Yah.

Q. When did you next leave for Germany? A. In July, 1932, I went back again.

Q. And how did you travel? A. Third class again.

Q. And the fare, how much was that, if you remember? A. The round trip, it was, I believe, $178.

Q. Now, did you buy anything on that trip that you remember? A. Yes, I did.

Q. What? A. I bought some silver; silver for myself.

Q. By silver, just tell us what you mean by silver, what kind of silver? A. Table silver.

Q. Oh, table silver? A. Yes.

Q. Knives and forks? A. Yes.

By the Court:

Q. What year was that, Mrs. Hauptmann? A. That was 1932.

Q. 1932? A. Yes.

Q. Do you recall about what month it was? A. I left, I believe, the 3rd of July and I came back the 10th of October the same year.

By Mr. Reilly:

Q. And you were with your mother, were you, during that trip on her seventieth birthday? A. Yes, I was.

Q. Now, on that trip did you go to visit your husband's people? A. Yes.

Q. And on that trip did you and Hauptmann's mother go to see any attorney? A. Yes, we did.

Q. Why did you go to see the attorney? A. My husband's mother was always longing for to see Richard and he could not come home; so we went to an attorney and asked him about it, and he told us that we had to wait a few more years or something like that until this expires. That was the reason why we went over to see the man.

Q. Now when you worked in Fredericksen's did Mrs. Fredericksen have any particular day or night that she had to herself? A. Yes.

Q. What night was that? A. Tuesday and Friday.

Q. Now, was that a regular custom? A. Yes, from the first day I came there.

Q. What were your hours in Fredericksen's on Mondays? A. From seven to five.

Q. And what were your hours on Tuesdays? A. From seven to eight.

Q. Now Tuesday—or, rather, March the 1st, 1932 was a Tuesday? A. Yes.

Q. And March the 1st, 1932, you were working for Fredericksen's, weren't you? A. I was.

Q. Did the Fredericksen's own a police dog? A. Yes.

Q. Now, did they have in their restaurant a supper trade? A. Yes, we had.

Q. What you foreigners call supper and what we call dinner, that would be in the evening. A. Yes.

Q. And would there be many customers come in for dinner? A. Yes, they had quite some people coming in.

Q. Were you the only waitress there in March, 1932? A. Yes, the only girl working there.

Q. Was Mr. Fredericksen a German or a Dane? A. He come from Denmark.

Q. And did he make a specialty of Danish pastry? A. He does.

Q. So was the place patronized not only by people in the neighborhood but by other people of Danish extraction? A. We had people coming for Danish pastry from far away.

Q. Now, on Tuesday, March 1st, 1932, did your husband call for you that night? A. He did.

Q. At what time? A. Well, maybe it was seven

o'clock, maybe quarter after seven, maybe quarter before seven. I don't know exactly the minutes.

Q. And how long did he remain there before you and he left to go home? A. He was there until we went home together.

Q. Yes, about what time, if you can recall? A. Oh, about half past nine, quarter to ten.

Q. And you went right home, did you? A. We did.

Q. Was that your custom to go home? A. Oh, yes.

Q. And after you arrived home did you remain there? A. Yes.

Q. Do you recall in March, 1932, about when your husband went to work for the Majestic Apartments—if you can remember? A. Just the time, do you mean the time in the morning?

Q. The time in the morning. A. Well, when he worked he drove me down to the place and he went right to work.

Q. Do you remember what month or what part of the month he worked? A. I can't exactly remember the day.

Q. Well, your husband was a carpenter, wasn't he? A. He was.

Q. And that is his tool box, isn't it? A. I believe so.

Q. Now, when you moved into this house, Rauch's house, is the correct? A. Yes.

Q. Three families? A. It is a two-family house but three family live there.

Q. The Rauches live in some part and you live in the upper floor: is that correct? A. Yes.

Q. And where did the other family live? A. The other family had their apartment just below us.

Q. What was their name? A. Mr. and Mrs. Schuessler.

Q. Schuessler? A. Schuessler.

Q. What was Schuessler's business, if you know? A. I believe he is a paperhanger. He works in a hotel; I know that.

Q. When you moved into Rauch's there was no garage, was there? A. No, there was no garage.

Q. Now, do you remember another date that has been spoken of here, April the 2nd, 1932? A. Yes, I remember that.

Q. That was a Saturday night? A. Yes, it was.

Q. Do you remember who was in your house that night? A. Yes, I do, Hans Kloeppenburg was with us.

Q. And anybody else that you can remember? A. No, that night only he.

Q. And what were you doing? A. Well, he came as a friend. My husband and Hans make music, play the mandolin and guitar; and after this we played cards, all three of us.

Q. What instrument does your husband play? A. Mandolin.

Q. And what instrument does Hans Kloeppenburg play? A. Hans plays the guitar.

Q. Was it their habit, as your husband has testified to here, to have a Saturday night, the first Saturday of the month, music night? A. That's right.

Q. There is another date that has been spoken of here. Do you know your husband's birthday? A. I do.

Q. What date is it? A. 26th of November.

Q. You would remember that, wouldn't you? A. Very well.

Q. Now, do you remember November the 26th, 1933? A. I do.

Q. Do you remember what night of the week that was? A. This was a Sunday.

Q. Who was in your house in the evening, late afternoon and evening of that date? A. It was Mrs. Mueller, my niece, and Paul Wetteler.

Q. And yourself? A. And Isidor Fisch and my husband and myself.

Q. Was it a birthday party? A. Yes, Richard's birthday.

Q. That was in November, 1933? A. That's right.

Q. When was your baby boy born? A. He was born the 3rd of November, 1933.

Q. Who named him Manfred? A. My niece did. She is his godmother.

Q. What niece? A. Mrs. Mueller.

Q. Now do you recall some time after you had moved into Rauch's house, a wagon loaded with wood breaking down in front of your house? A. Yes, I do.

Q. And did he sell some of that wood that was on the wagon to you or to Mrs. Rauch? A. No, he didn't sell it, he wanted to sell it, but she wouldn't give him that much money as he asked for, so the driver was mad and he said all right, let the wood lying there and so he did.

Q. And was some of that wood used to build the garage? A. Yes, my husband put some on the side, on the empty lot, and used that for the floor in the garage.

Q. When was it, Mrs. Hauptmann, that you first met Mrs. Henckle? A. It was in 1932 after I came back from Germany, I believe, in October.

Q. Where did you meet her? A. In her house.

Q. Where? A. On 149 East 127th Street.

Q. Who took you there to meet her? A. My husband.

Q. Had he met her while you were in Europe? A. Yes.

Q. Well, now, you saw Mrs. Henckle there, didn't you? A. Yes.

Q. You saw her many times after that? A. Oh, yes; she came in my house often.

Q. Is she here in court today? A. (Witness looks around courtroom.) I don't know.

Mr. Reilly: Is Mrs. Henckle here?

Q. Did you see her here this morning? A. No, I don't think she is here.

Q. She has been here, though, from day to day? A. She has been with me and went back to New York.

Q. Now, Mrs. Hauptmann, from anything you saw or anything you heard in connection with Mrs. Henckle and your husband have you ever entertained the slightest suspicion concerning your husband's infidelity toward you? A. Mrs. Henckle was not only a friend of my husband, she was my friend too.

Q. Did you ever entertain any thoughts or opinions that your husband was untrue to you? A. Never.

Q. Now, there has been talk here about Hunters Island. A. Yes, I heard so.

Q. Will you tell us the kind of a place Hunters Island was as far as your group was concerned? What did you do when you went there and how did the people act and how did they spend their time? A. Well, the place in Hunters Island where we went to, it was, there was water, trees and everything. We would go there on Sunday morning, sometimes during the week. We came there in the morning. We met all the others. Was just like one big family there.

Q. Were they mostly Germans? A. Yes, most of them; and almost everyone knowed—one knows

the other there. We came there in the morning, we cooked coffee, the man made coffee, we had coffee there; we would play ball, we would play horse shoe; we had mandolins there to make music; we went bathing, we make some other games, played other games. That's what we done there.

Q. All in a friendly gathering, is that correct? A. Just like one big family.

Q. Well now, in Germany that's the way the people spend their Saturday afternoons and Sundays, isn't it? A. Yes, that's right.

Q. Isn't it a fact that in Germany, if there is any water or lake, river or stream near a village, that on Saturday afternoons and Sundays in the summer the people go to the stream and have games and bathing? A. Well, it is what everybody likes.

Q. And you carried on, your group, did you, the same custom that you had in Germany, at Hunters Island? A. It is the same thing here for years and years.

Q. When, Mrs. Hauptmann, did you first see and meet Isidor Fisch? A. When I met him?

Q. Yes. A. I met him after I came back from Germany in 19—

Q. The first time or the second trip? A. The second trip, in 1932.

Q. And where did you meet him? A. I think I met him in Henckle's house.

Q. Did you afterwards learn that your husband and Fisch were in business? A. Oh, yes.

Q. Did Fisch come to your house? A. Yes, quite often.

Q. Did you and your husband go to visit Isidor Fisch at his room? A. I never was up in his room.

Q. Did you ever meet him in anybody else's

house besides Henckle's? A. No, only in Henckle's or in Hunter Island.

Q. Did he live in Henckle's house? A. He used to live in the same house.

Q. When was it that you first learned that Colonel Lindbergh's baby had been kidnaped? A. I read it on Wednesday morning; it was a Wednesday morning. A customer showed me a paper over the counter.

Q. When, Mrs. Hauptmann, did you first meet a man named Henry Uhlig? A. I can't exactly remember when, but I know I met him in Mr. and Mrs. Henckle's house—home.

Q. Is that the Henry Uhlig that went to Germany with Fisch in 1933? A. Yes, that's him.

Q. Now, Mrs. Hauptmann, do you remember a little gathering or party, farewell party to Fisch at your house? A. Yes, I do.

Q. And about how long before he sailed was that party given? A. This was the Saturday night, the Saturday before he left, about four days before he left for Germany.

Q. And who was at the party? A. There was Mr. and Mrs. Wollenburg, Mrs. Schuessler—

Q. From the house? A. Yes, from downstairs —and my brother Ernst.

Q. Ernst? A. Ernst, Hans Kloeppenburg and Mrs. Miller, my niece, and my husband and myself.

Q. Now, when Isidor Fisch came to that house that night, did he bring anything with him? A. I heard it.

Q. Did you see him?

Mr. Wilentz: I move that be stricken out, if your Honor please— Just a minute.

Mr. Reilly—I consent to it.

The Court: I think that will have to go out. Strike it out.

Q. Did you see him bring any packages or bundles or anything with him? A. I wasn't there when he came up the stairs.

Q. Were you in the apartment when he came up the stairs? A. I was in the apartment.

Q. But in some other room, is that it? A. Yes, in the baby's room I was.

Q. Now, after he left that night, did you see any strange pieces of baggage around the house? A. Strange?

Q. That had been left? A. No, I didn't see.

Q. By him? A. I didn't see anything.

Q. When did you first see, if you ever did, the suitcases that Fisch left some clothing and underwear in? A. He brought some suitcases maybe a week before he left.

Q. Oh, he brought those before? A. He brought them up.

Q. Tell us about them. A. He asked me if he could bring his stuff to us and leave it there. It was things what he didn't want to take with him to Germany. So I said sure he could bring it, we had room there, and he brought suitcases.

Q. How many? A. I remember one.

Q. Was it large? A. There was up in the apartment—this one he brought to the apartment, and there was some boxes, like cardboard boxes, about that size, with furs, he brought two, I don't know, a week before, or this he brought maybe a few weeks before; I don't remember that exactly. And he had a valise with books, he said filled with books in.

Q. These he had left in your apartment before this party? A. Yes.

Q. So that if he had anything at the party you didn't see him bring it, did you? A. No.

Q. Now you had a broom closet there, didn't you? A. Yes.

Q. And that is the closet that the Attorney General offered a picture of in evidence. I am showing you now State's Exhibit 264 and ask you if that is the closet, the broom closet? A. It is here (indicating).

Q. Alongside of the sink? A. Yes.

Q. With your apron hanging on the top, is that it? A. Right.

Q. How tall are you, Mrs. Hauptmann? A. Five four I believe.

Q. Now this top shelf indicated in Exhibit 264, how high was that? A. I couldn't say exactly how high.

Q. Well, could you reach it? A. Well, I have to stand up and stretch myself.

Q. Well now, come down here, please. A. (The witness stepped from the witness stand to the wall at the right of the jury.)

Q. This is the broom closet. No, this is the broom closet over here (indicating). Now will you stand over here, please, and show us how you would have to reach up? This is the closet, and you are facing it. Here is the door. Now you want to get something or put something on the top shelf. How high do you say the top shelf would be? A. Well, I would have to reach like this (indicating).

Q. On your toes? A. Yes, like this.

Q. That's all. A. (The witness resumes the stand.)

Q. Did you know anything about any box, shoe box, card board box on the top shelf of the broom closet? A. No, I never used that shelf.

Mr. Wilentz: I move that last part be striken out, "I never used that shelf."

Mr. Reilly: I think it is proper.

Mr. Wilentz: Well, I have no objection to it.

The Court: The objection is withdrawn.

Q. Now, I want you to tell the jury what you observed about that closet in connection with any water you may have found in there at any time and where in your opinion the water came from. A. This closet, in this closet there were three shelves, on the right side. On the first shelf I had a box where I kept my shoe polish and brushes and things like this, and soap and powder, Lux or so on. On the second shelf, about that much higher I had my ironing, electric iron, and bottles, with polish, all kinds of stuff, and rags, cloths, what I needed for cleaning. And there was the third shelf, which was the top shelf; on that top shelf I believe I put up some few bundles of shelf trimming, what I didn't use in that house. And the water came through, through that closet, through a pipe. When I opened the door, there is a pipe about that size, I don't know what for; and this goes through the ceiling, and the water came down, on the pipe and on the top of the ceiling, and I noticed a few times that even my mop that was hanging on the left side in the closet sometimes was very damp, wet, the water came through the closet, through the ceiling, and many a times, the shelves were wet, and even down on the floor I had to put a pot and sometimes when we had very heavy rain there was water in it about that deep in the morning.

Q. Now, at one time did you have a plumber come in and look at it? A. Yes.

Q. There was no water, there was no broken pipe in the closet, was there? A. Oh, no.

Q. No busted pipe? A. Oh, no.

Q. Or no water apparently in that pipe that needed to be fixed? A. No, I don't believe this is a water pipe.

Q. You think it was a ventilation pipe that ran to the roof? A. I believe it was a pipe that wide (indicating with hands).

Q. And about when was it, if you can tell us, that you had this plumber come in and look at it? A. I told Mr. Rauch once and he brought a man up, this man, I don't know who he is, and he said he would fix it, but then the water came in and in again and then Mr. Miller came, this is the plumber I know, and he was up and looked at the closet. We showed it to him, where the water came down and he said that he had to go, he needed a big ladder, he had to go outside, up on the house, on the roof. This was maybe in 1933 or '34, I don't remember when this was.

Q. Do you recall, Mrs. Hauptmann, 1926 or 1927, you and your husband buying a lunch room? A. Yes, we did.

Q. Where? A. In Lexington Avenue and 120th Street.

Q. How much did you pay for it? A. $900 cash money.

Q. Was it afterwards sold? A. Yes.

Q. Who to? A. A short time after.

Q. Who to? A. To Albert Deibig.

Q. Deibig was a friend of your husband's, wasn't he? A. Yes, he was our friend.

Q. Mrs. Hauptmann, did you keep a record of all the money you have earned since you came to

this country while you were working? A. We put it down in a book.

Q. How much do you say you earned altogether? A. Do you mean since I am in this country?

Q. Yes. A. Well, I would say around 7,000, a little over $7,000.

Q. Did you save most of it? A. Oh, yes.

Q. And your husband and yourself at different times, at one time, had a joint bank account? A. Yes.

Q. Were all the family funds put in that, your earnings that you saved, put in that bank account? A. Not all.

Q. Well, your savings were put in there? A. Yes.

Q. You trusted your husband and he trusted you: is that right? A. Sure.

Mr. Wilentz: I move the part about the husband trusting her be stricken. That is the part I object to.

Mr. Reilly: All right.

Q. You trusted your husband, didn't you? A. Who shouldn't trust a husband?

Mr. Reilly: I don't know. That speaks well for some of us.

The witness is yours, General.

Cross Examination by Mr. Wilentz:

Q. Mrs. Hauptmann, you remember, of course, the furs and the other things that Mr. Fisch left? A. Yes, I do.

Q. And I think you said that there was a valise

with clothing in it, some sort of clothing? A. Yes.

Q. And then there was a trunk or something with furs? A. Like a cardboard, this was not a trunk.

Q. A big cardboard box or something? A. Not so very big, about—

Q. Well, about— A. That long.

Q. About 20 or 24 inches long, would you say, or two feet long? A. I don't know how much two feet, about that size.

Q. Can we agree that is about two feet? Will you show it to us again so we can agree. A. Maybe it is like this (indicating with hand).

Q. About 20 inches or 24 inches in length? A. Maybe that height, or a little higher.

Q. About a foot high. I see. And what was in those boxes or valises? A. There was small skins.

Q. Furs? A. Furs.

Q. And what else? A. That was all there was in it.

Q. Well, the other things he left? A. In the valise you mean?

Q. Yes. A. There was underwear and a lamp, electric lamp.

Q. Yes, ma'am. A. And some pictures.

Q. You mean pictures of himself and other people and things like that? A. Yes.

Q. Yes, and what else? A. I believe that is about all, a few little pieces of furs or skins, we found in that valise.

Q. Oh, he had personal belongings? A. Yes.

Q. Furs and clothing and pictures and papers and books and things like that? A. Not in that valise. There was books—

Q. Oh, I see. What was the next thing? I thought I included them all. A. There was books, another one only with books.

Q. What was that, a valise or satchel? A. A satchel or a valise.

Q. How big was that about? A. Oh, not very big. I can't remember.

Q. A small satchel you can't remember you say. You worked very hard, didn't you, Mrs. Hauptmann? A. I did.

Q. And until 1932 your husband worked very hard, too, didn't he? A. He worked.

Q. Yes, and saved money. A. He did.

Q. Yes. And I take it that you and your husband were quite happy? A. We were, very.

Q. And you put your money in the bank, the money that you saved as the result of your hard work you put in the bank, didn't you? A. Yes, I did.

Q. And then finally your husband started to gamble in the stock market, is that right? A. Yes.

Q. And then he lost some money, is that so? A. I guess so.

Q. You think so. I am right up to about 1932. What did you do with the—what happened to the valises and all the things that Mr. Fisch left? A. When do you mean, after, what happened after to them?

Q. Yes. When Mr. Fisch died and you got word and you went down to look at the valises and the trunks, or whatever it was he had. What happened to them? A. My husband went down to the garage and brought them up.

Q. Brought them up to the house? A. To the front room.

Q. And what happened to them? A. We opened them, looked it over, what was in it.

Q. Yes. And when you found out what was in it what did you do with it? A. Took them downstairs again.

Q. Took them downstairs? A. To the garage.

Q. What did you do with the furs? A. They were still in the room, in the baby's—in the closet in the baby's room.

Q. The furs? A. Yes.

Q. What did you do with the clothing, Mr. Fisch's clothing? A. They were only underwear or shirts, or something.

Q. Throw them out, did you? A. No, they were in there.

Q. Well, what did you do with them? Did you throw them out or leave them there, or what? A. No, they were in the valise; we put them back again.

Q. Where did you put that, in the garage? A. No.

Q. Or the room? A. I think it was down in the garage.

Q. What did you do with the other satchel? A. It was all downstairs in the garage.

Q. You left that in the garage? A. Yes, in the garage.

Q. You left that in the garage? A. Yes.

Q. Well, what finally happened to the furs? A. The furs were still there.

Q. Were the furs there when the police came? A. Oh, yes.

Q. I see. And the clothing too, Fisch's clothing? A. Yes, I saw some laying down in the garage when I went down. When the police took me down to the garage I saw it laying there.

Q. You saw it laying there? A. Yes.

Q. You didn't see the other valise with the papers and the books, though, did you? A. This was down in the garage too. I don't know what was laying there. Everything was upset there.

Q. You didn't see the papers and the books, did you? A. What papers?

Q. When you came down to the garage, when

the police came there; you didn't see the papers or the books when you came down to the garage when the police were there, did you? A. I don't know if they were laying there or not, but everything was upset in the garage.

Q. And the reason you don't know is because you didn't see them, did you. A. I can't remember seeing books.

Q. You can't remember seeing the books that were there. Well, you remember that there was a valise of Mr. Fisch's with books and papers; you remember that, don't you? A. Yes, I do.

Q. But when the police came they took you down while they were searching the garage, didn't they? A. Yes.

Q. And you were there when they found the money, weren't you? A. I was.

Q. You didn't see any box or papers of Mr. Fisch's then, did you? A. In the garage, you mean?

Q. Yes. A. I don't know what was laying around there.

Q. Yes. I suppose you were quite excited anyway? A. I was.

Q. And you didn't expect them to find any money there, did you? A. I didn't know why they took me down to the garage.

Q. You didn't know that—you didn't expect them to find any money there, did you? A. No, I didn't.

Q. And when you were down there you still saw the furs there? A. No, there was no furs in the garage.

Q. Oh, the furs were in your house, but the other things, the clothing, you saw that there, didn't you? A. I saw this laying around on the floor.

Q. Yes. But you didn't see any books or papers there? A. I don't know if I saw any or not.

Q. If you did see them you don't remember? A. I don't remember that.

Q. I see. Mr. Fisch did leave with your husband whatever books and papers there were that you saw when you found out about his death, didn't he? A. Yes.

Q. Yes. A. No papers, only books.

Q. Books? A. Just books.

Q. Now this broom closet we talked about that you just showed to the jury, the height of it, that was a closet in which you kept—it was in the kitchen, wasn't it? A. Yes.

Q. And it was a closet to which you went every day, wasn't it? A. Yes.

Q. Every day you went to that closet and you never saw any shoe box on the top shelf, did you? A. I don't know what was on the top shelf.

Q. You never saw a shoe box there, Madam, did you? A. I didn't.

Q. No. From 1933—may I have it please—from November, 1933, or December, 1933, the months and the day that Mr. Fisch was last at your home, until September, 1934, you never saw a strange shoe box on the top shelf of that closet, did you? A. I never had anything to do with the top shelf. I didn't use it for my—for myself.

Q. We will come to that in a minute. But you never saw it, whether you had anything to do with it or not? A. I don't know what was there.

Q. No. The top shelf—take a look at this closet, please, which is S-264. Is that a correct picture of the closet? A. This is the closet here.

Q. That is the closet and the shelves are there? A. Yes.

Q. Does it show the correct position of the

shelves at the closet in the kitchen? A. No, it doesn't. I don't know. That is not like this.

Q. What is it? A. There are little bottles up there, I didn't have bottles up there.

Q. Well, never mind the bottles. The position of the shelves and position of the cloths. A. Yes, the shelves.

Q. Are they just as they were in the house? A. I think so.

Q. You think so. All right. Now I want you to take a look.

The Court: Are those the shelves in the closet?

The Witness: No. Those are the shelves.

Mr. Wilentz: That is the closet.

The Court: Oh, that is the closet.

The Witness: Those are the shelves.

Mr. Wilentz: The broom closet.

Q. Now, I want you to take a look at the apron there. A. Yes, I see them.

Q. And it is hanging on a nail, isn't it? A. No, it is not a nail.

Q. What is it? A. It is a hook.

Q. A hook? Will you look at it, please, madam? A. Yes, I see it.

Q. Is that where the hook was when you were living there? A. I believe so.

Q. You believe so, and you used to take your apron and hang it up there, didn't you? A. Yes.

Q. You didn't have any trouble doing that, did you? I mean it wasn't hard for you to hang up

your apron on that hook, was it? A. Oh, I could hang it up.

Q. Just put it on easily. Now see if that hook isn't above the top shelf of the closet. A. I see that.

Q. It is, isn't it. So you had no trouble reaching above the top self of the closet to hang up your apron. A. I had no trouble reaching it.

Q. What is it, madam? A. I had no trouble reaching it.

Q. Certainly not. You had no trouble reaching to the hook which was above the top shelf of the closet? A. I could always hang them up like this.

Q. Certainly. Now you remember this closet, Mrs. Hauptmann? A. I do.

Q. And you know if you stood a few feet away from it you could see everything on that top shelf? A. Why should I stay away a few feet and look up there?

Q. I know that, but if the closet door was open and you stood a few feet away from it, if you looked at it you could see everything on the top shelf? A. I didn't stay away a few feet; when I went to the closet I went over, opened the door and got whatever I needed from the closet.

Q. I don't want to argue with you, Madam. I would like to have you answer the question. If you don't want to answer it, I will stop asking it. Will you please tell me if it is not a fact that if you stepped away from the closet a few feet, that beginning a few feet away from the closet, that as you looked at it, if the door was open, you could see everything on the top shelf of that closet, couldn't you? A. I don't think so.

Q. You don't think so? A. Those shelves are inside, inside the closet, not in front of you.

Q. Well they are just as you see it on that

picture, aren't they? A. Yes, but it is inside the door. When the door is open, the shelves are on the right side.

Q. Oh, I see what you mean. They are to the side a little bit. I think you are right about that, you can just see about like those bottles are shown on the top shelves now? A. This you can see.

Q. Now it isn't a very—the closet isn't very high, is it? A. The closet or the shelves?

Q. The shelves and the closet, they are both not very high? A. Well, the closet is very high.

Q. But the shelves are not? A. They are high, too.

Q. About how far away from the top of the closet, the ceiling of the closet, how far down was the top shelf? Give us your best judgment. A. I couldn't say that.

Q. About 18 inches would you say, about that much (indicating) or two feet or less or what? A. I don't know. It was much higher anyhow, the ceiling was much higher.

Q. You were the lady of the house and I take it that you did your own cleaning, Mrs. Hauptmann? A. I did.

Q. And of course you cleaned the closet, too, once in a while? A. I do clean closets.

Q. How often did you clean this closet, once a month, once in six months? A. Those shelves—

Q. No, never mind the shelves, please, Madam, the closet. How often would you clean this closet? A. Almost every week.

Q. Did you ever clean the shelves? A. I did.

Q. Did you ever clean the top shelf? A. I never use the shelf.

Q. Did you ever clean the top shelf—that is all I want to know; if you didn't, say so. A. No, I didn't.

Q. Never cleaned the top shelf? A. (Nods head.)

Q. You cleaned the first shelf, didn't you? A. I had to clean the first and the second because I had my stuff there.

Q. How many were there all together? A. Three.

Q. Three shelves? A. Yes.

Q. So you cleaned the first shelf, and you cleaned the second shelf, but you never cleaned the top shelf? A. No, I didn't use it.

Q. You don't really mean that, do you, Mrs. Hauptmann? A. I didn't use that.

Q. Well, whether you used it or not you put something on before, you just told us—you used to keep something wrapped up. What was it you told Mr. Reilly you kept up there? A. Shelf trimming.

Q. Shelf trimming. So you kept something up there? Of course, the electric iron and the soap and those things you kept on the lower shelves because you wanted that more handy. A. Yes, I kept this down there.

Q. But this shelf trimming you did put on top there, didn't you? A. This was shelf trimming my niece gave to me and I couldn't use it in my house. That is why I put them up there.

Q. You didn't have much use for it. A. (No answer.)

Q. But you put it up there anyway. A. Yes.

Q. Of course it wasn't dirty up there, was it? You didn't let dirt accumulate and dust, did you? A. What should I do up there? I put that stuff up there and I left it there.

Q. Well, you never cleaned the top shelf, is that what you mean? A. I never went up there.

Q. Please. You never cleaned that top shelf? A. I did not.

Q. No? All right. But there isn't any question in your mind that every day when you went to put that apron up all you had to do was to reach your hand up and put it on the hook? A. I did put it there.

Q. And you had no trouble with it. A. No.

Q. Did you ever go to reach that top shelf? A. I did.

Q. You didn't have any trouble there. A. Trouble I had to stretch up.

Q. Well, you stretched your hand up, is that what you mean? A. I had to stand up and stretch up like this (indicating).

Mr. Wilentz: May I show the jury this exhibit, if your Honor please, which we are discussing at such great length?

(The exhibit was handed to the jury.)

Mr. Wilentz: If your Honor please, because of the importance of this, would you mind waiting until the jury inspect it?

The Court: Not at all; take your time.

Mr. Wilentz: Do you want a glass of water?

The Witness: No, thank you.

(Photograph returned to Mr. Wilentz.)

By Mr. Wilentz:

Q. Now, right alongside of that closet, the broom closet, to the left of the broom closet as

you look at the picture, there is another closet where you kept food, isn't there? A. Yes.

Q. Groceries, and so forth? A. Yes.

Q. Right next to it is the icebox? A. And the wash closet.

Q. Yes, and then beyond that is the door leading into the kitchen? A. Yes.

Q. And joining the broom closet on the other side is the—what is that? A. This here?

Q. Yes. A. Sink.

Q. The sink.

Mr. Peacock: We can't hear her.

Mr. Wilentz: The sink.

The Witness: The sink.

Q. Did you keep groceries right in that closet, right next to the broom closet? You always kept groceries there, didn't you? A. No, there is a lot of empty boxes there, coffee boxes.

Q. Oh, there are empty coffee— Well, did you keep foodstuffs, coffees and other things in that closet? A. Yes.

Q. The kitchen closet? A. Yes, I did.

Q. I will call one the kitchen closet and the other the broom closet. A. Yes.

Q. Yes. And in 1933 and particularly during the time November, December, 1933—

Mr. Fisher: Let me see that picture, Mr. Wilentz.

Mr. Wilentz: Yes, sir; yes, sir.

Mr. Fisher: And may we have the name of the man that took it?

Mr. Wilentz: Yes. I don't know. The Captain will tell you.

Q. November and December, 1933, and then January, February, March and right up until September, 1934, you did keep groceries in there, didn't you? A. Yes, I had groceries.

Q. You never had to move the groceries out on account of that being wet, did you? A. No, there was no water in that closet.

Q. No water in there. In the broom closet itself, you told us about the things that you kept there, the soap and all these other things, and I take it that all those things you kept on the two bottom shelves? A. I did.

Q. But you did keep some things, didn't you, on the top shelf? A. There was some shelf trimmings there.

Q. What is that? Shelf trimmings? A. The shelf trimmings were there.

Q. Now won't you just try for a minute, please, and see if you can't remember whether you kept something else on there besides the shelf trimmings? A. (No answer.)

Q. Well maybe I can help refresh your recollection. You used to have a tin box up there, didn't you? A. Yes, a box I had up there.

Q. And in that tin box you used to keep coupons, didn't you? A. Yes, I did.

Q. You used to keep the coupons you got from soap? A. Yes.

Q. It was a sort of a tobacco box, wasn't it? A. It was a tobacco box, yes.

Q. And you kept that up on the top shelf, and every time you bought soap and you got coupons from the soap, you would save them, wouldn't you? A. I save them, yes.

Q. And you would save them in this tin box? A. I didn't go to that tin box; I put those coupons in my drawer in my kitchen table.

Q. Yes. A. Maybe every—when I had a lot of them, I cut them out with the scissors.

Q. Yes, ma'am. A. And then I put them in the box.

Q. So after you would save a certain number of coupons, then when you got the number together, a lot of them, then you would take them and put them up in the tin box? A. No, I'd get the box down.

Q. You would get the box down, put the coupons in and then you would put the box back. A. Yes.

Q. So you remember now you did have a tin box up there. A. Yes, I had that box on the top shelf.

Q. Then when you went to take the tin box down, that would happen how often, about once a month, two months, three months? A. Once every three months, four months.

Q. Once every three or four months. And from November or December, 1933, until September, 1934, I suppose that you took that box down at least two or three times, didn't you? A. Maybe I did.

Q. Now, when you went to take that box down, that tin box down, you had to reach into that closet, didn't you? A. Yes.

Q. And into that top shelf. A. Yes.

Q. You didn't see any shoe box there, did you? A. Well, that—

Q. Please answer the question, madam. A. No, I didn't.

Q. You did not? A. I didn't look, I didn't know what's there.

Q. Well, you didn't see anything there. A. I only had my box was there.

Q. All right. Now, you never took the soap out of there on account of the rain or water? A. What?

Q. You didn't take the soap out of there on account of the closet being too wet? A. Sure I took the soap out.

Q. On account— A. When it was wet I took the things out and I dried it. I had some oilcloth laying on those two shelves.

Q. And then you put it back again? A. And I just dried them and put it back.

Q. Put it back again in the same closet? A. Yes, in the same shelves.

Q. Even though nobody repaired it you put it back again? A. Where should I put it? That was the place for it.

Q. I don't know. I am not objecting to what you did, I just want to know what you did. A. I put them back in the same place.

Q. Yes. You didn't have the closet fixed but you wiped off the things that were wet and put them back again? A. Yes.

Q. Yes, ma'am. Now, you had rags and clothing in there too, didn't you? A. In where?

Q. In the closet—cloths? A. Cloths for cleaning.

Q. Yes, ma'am. Did you use those cloths for cleaning? A. No, this was old stuff.

Q. Old stuff. Well, what did you have them for, for cleaning purposes? A. All these things was, I had old things what I didn't use.

Q. Yes, ma'am. A. And I put up there, but I had a bag with rags—this I didn't have in that closet. Those are the rags I used for cleaning those rags.

Q. I think you told Mr. Reilly before that you

had some rags or clothing in that closet. Now, were you mistaken about it or did you? A. No, I am not.

Q. You did have some then. A. I did.

Q. Did you keep those on the first shelf, second shelf or third shelf? A. In the third shelf, on the top shelf.

Q. Top shelf. What did you put the rags there for? A. Oh, I throw them up there once.

Q. I thought you kept the rags there, the cleaning, the house rags that you used for cleaning in the house and you would keep them right there in the broom closet where you kept the soap and powder and everything so that in the morning when you went to clean house you would go for the soap and you would take the wash rags and you would take the other things and clean around. A. No, not like that.

Q. Those rags were old rags that you didn't want? A. I didn't even know what kind of rags it was, but I know I once throw some up there.

Q. Yes, ma'am. Of course, if you don't know, I don't either, but whatever it was you didn't use them, did you? A. No.

Q. Now, did you have curtain rods up on the third shelf? A. There was something laying up there.

Q. What, curtain rods? A. Long sticks or rods, what you call them?

Q. For the curtains? A. No, this was old ones, Mrs. Fredericksen gave them to me once.

Q. Well, whether they were old ones or new, did you have some up there? A. There was some up there.

Q. So, in addition to the rags there was a tin box, there were curtain rods, and I think there was something else I think you said you put up

there—oh, yes, that was that little bundle, you said you bundled up. A. What bundle?

Q. Something from the window shades or something. A. Shelf trimming.

Q. Shelf trimming. So you had shelf trimming up there. You had old rags that you put up there. You had coupons, a tin box up there and you had the rods. A. Yes.

Q. It was a pretty busy closet, a pretty busy shelf, wasn't it? A. This was put up there and was there.

Q. Yes. All right. Do you remember anything else that was up there? A. I don't know.

Q. When you say it was wet, you mean it was just a little damp, isn't that what you mean? A. Wet, it was sometimes very wet.

Q. But, as a rule, it was just a little damp, isn't that right? A. Damp or wet, it was wet, it was water there.

Q. Now these rods that we were talking about a moment ago, how were they lying or laying in the closet, how were they lying in the closet? A. I don't know that. I didn't put them up.

Q. Well I know, but you saw this closet every day, Madam, and you went up to this tin box and you see we have to find out from you, because you are the lady of the house, if you remember—if you don't remember and will say so, I won't annoy you with it again. Were they just sideways, flat on the shelf or were they crosswise or how? A. I didn't know how they were there.

Q. You don't know. All right, Madam.

Q. Now, when you came back from Germany and your husband stopped working you objected to it, didn't you? A. He didn't stop working.

Q. Well— A. When do you mean? In 1932?

Q. When you saw that he wasn't working regularly any more, and you were living, I think, at

Needham Avenue then— A. No, not that time. When I came back from Germany in 1932—

Q. Yes. A. —we were living in 222nd Street.

Q. I see. But whenever it was, when you realized that he wasn't working any longer as a carpenter, except once in a long while, you were angry with him, weren't you? A. Angry?

Q. Well, you objected to it, you told him about it, didn't you? A. He was working when he had a job. He worked for himself then.

Q. Did you tell him when you realized he was spending all his time in the stock market—didn't you complain to him, "Richard, I don't like this; why do you stop your work as a carpenter"? A. No.

Q. Or something like that? A. No.

Q. You did not? A. I did not.

Q. Didn't you object to his speculations? A. I did say that I don't like that he is in the stock market. I did say that.

Q. Yes. And you objected when he tried to take that money out of your bank accounts to speculate in silver, too, didn't you? A. I remember that time.

Q. Yes. And you objected to it, didn't you? You said to him, "Why don't you take the money out of the stock account, not out of my savings?" Isn't that what you said? A. I said he shouldn't put any more money in the stock market.

Q. Yes. He wanted to speculate with silver, didn't he? A. I know he said something about buying silver.

Q. $2500 worth, wasn't it, something like that? A. I can't remember exactly how much.

Q. And you objected to it, didn't you? A. I did.

Q. Now you remember, of course, Mrs. Hauptmann, that you were a witness in the Bronx in these proceedings in which your husband opposed

his return to New Jersey—you remember that, do you not? A. Yes, I do.

Mr. Wilentz: I will just ask this one question on this line, if your Honor please, before adjournment.

Q. Page 50, about the third or fourth question —I want to read to you a question that was directed to you in the Bronx and your answer as it is here and ask you if you remember it. I will read some questions before it so you will get the gist of it. Right at the top:

"Q. Now, when your husband was arrested recently Inspector Bruckman spoke to you about this case, did he not? A. Somebody spoke to me."

Do you remember that question and answer? A. Yes, I think I remember that.

Q. Well, then, we get down to this question: "And did not you tell Inspector Bruckman and others who were there present at the time, that you had no recollection at all of what happened March 1st and that it was too far back, that you don't know whether your husband was with you or not,"—And didn't you answer, "I did tell him that." Did you tell that to Inspector Bruckman? A. Will you read that again for me, please? I don't understand it.

Q. "And did not you tell Inspector Bruckman and others who were there present at the time that you had no recollection at all of what happened March the 1st, and that it was too far back, that you don't know whether your husband was with you or not? A. I did tell him that." Did you tell Inspector Bruckman that and did you so testify in The Bronx? A. I was asked—someone asked me if I remember that night of the kidnaping and I said I do.

Q. Yes, ma'am. A. And then someone asked me about the 1st of March and I said I didn't know if this was the 1st of March; I couldn't remember that, and I said it was too far back, I couldn't remember the 1st of March.

Q. Certainly. A. I didn't know this was the day.

Q. You didn't know at the time that March the 1st was the night of the kidnaping, is that what you mean? A. I didn't know it was the 1st of March.

Q. And so when they asked you about March 1st you said, "That's too far back, I can't remember whether my husband was with me or not"? A. When they asked me about the 1st of March I believe I said that.

Q. Yes, ma'am. And in The Bronx courthouse you were asked the question and of course you answered it that way, didn't you? A. I think I did.

The Court: I think we had better take a recess, Mr. Attorney General.

The people will remain seated until the jury has retired.

(The jury retired.)

The Court: The prisoner may now retire.

(The prisoner retired in the custody of the sheriff.)

The Court: The Court will take a recess until 1:45.

(At 12:36 p. m. a recess was taken until 1:45 o'clock p. m.)

After recess.

(1:48 p. m.)

(The jury was polled and all jurors answered present.)

ANNA HAUPTMANN resumed the witness stand.

Cross Examination (continued)

By Mr. Wilentz:

Q. Mrs. Hauptmann, just one more question about the 1st of March. When Inspector Bruckman was speaking to you your husband was already arrested, isn't that so? A. Yes, he was.

Q. And you knew, of course, that it was about the Lindbergh case at that time, didn't you? A. I didn't know why he was arrested.

Q. But when Inspector Bruckman talked to you he talked to you about the kidnaping and about the Lindbergh case and he told you it was March 1st, 1932, didn't he? A. No, he didn't tell me.

Q. I see. You and Mrs. Henckle were good friends you said? A. We were.

Q. Were you very good friends? A. Yes, we are still.

Q. Tell us something about why you say you were good friends. Did you spend much time with her? A. Sure, we came—we went to her house every week. Every Thursday night we played cards in her house.

Q. Yes. Never had any trouble about it? A. Pardon me?

Q. Did you ever have any trouble with Mrs. Henckle? A. No, I never had trouble.

Q. Did you ever refuse to go to her house? A. No, I did not.

Q. Did you talk to your husband about it? A. We spoke about them a lot.

Q. Yes. But I mean didn't you speak to him with reference to the fact that you didn't want to go to her house any more? A. No, I—this was the first time when I came back from Germany I saw pictures in our album, and I didn't know Mrs. Henckle then and then I said I didn't want to go in their house.

Q. Then you said you didn't want to go in her house. You didn't like the idea of the pictures that your husband had taken while you were away, which showed him with Mrs. Henckle and other people, isn't that it? A. Yes, I would say so.

Q. And did he act differently after you came back from your trip to Germany in 1932 than he did before? A. I couldn't say so.

Q. Well, didn't you notice a difference about his conduct with you, the attention that he directed to you? A. He was always the same to me.

Q. He was. Do you remember when you were making the statement and you were asked whether or not you ever had any words or trouble with Mrs. Henckle, and your answer was as follows: "Not exactly trouble; I did stop for a long time going to their house. I told my husband I was not going there any more." Do you remember that? A. I had reason but there was no fighting.

Q. You had what? A. I had reason for not going there any more, but there was no fighting.

Q. No, there was no fighting, but you had reason for not going there any more. A. Yes, I had.

Q. What was the reason? A. I couldn't say that to you.

Q. All right. You don't need to say it. Now, in 1933 your child was born in November, 1933. A. Yes, he was.

Q. And I suppose that—did you still continue to take care of the house yourself? A. Yes, I did.

Q. Before and after? A. Yes.

Q. Before your child was born and after? A. Yes.

Q. I want to direct your attention to the closet again and make sure that I haven't done you an injustice. Now when you were nursing your child I suppose you had difficulty about reaching the closet, didn't you? A. The doctor told me I shouldn't stretch, I shouldn't reach high.

Q. So you didn't reach for that closet many times on account of that condition, I suppose? A. I didn't.

Q. With reference to the gold, you were the one to tell your husband Richard the President says "That we are not to have gold," and he had several hundred dollars worth of gold that you knew of, and you told him to take it into the bank, didn't you? A. He told me he had gold—

Q. Yes. A. —and then we heard over the radio that we were not allowed to have gold, and I told him we should bring it back to the bank.

Q. And he said to you, "Rich people keep gold because it is always the same worth." Isn't that right? A. He said to me he has to bring it back to the bank. First he didn't want to.

Q. Yes. A. But then he did.

Q. I see, that is what I mean. Now, and then about the time that he wanted to invest a couple of thousand dollars, more or less in silver and you were telling us about it this morning, and you objected to it, and finally you did agree when

he invested, and in doing it you did agree and you went down to the bank with him and let him draw out the money, did you not? A. Yes.

Q. Right. Then, after he drew out the money he complained to you that you hadn't let him draw it out soon enough; if you had let him draw it out soon enough, he would have made money; isn't that so? A. First he said something about buying silver.

Q. Yes. But first you didn't want him to take the silver out, then finally you said all right, and you and he went down to the bank and he drew out the money, and then later on he complained to you, didn't he? He said, "If you had let me take that money out sooner I would have made more money," isn't that so? A. I didn't know what he said exactly.

Q. I see. Now you did see some gold bills, some bills— Withdraw that. You did see some gold bills in the house, did you not? A. I remember a time my husband asked me if I get gold bills, with gold on I should save them, he could get gold coins for them that would be just as good as gold bills. It was a time around the inflation.

Q. He showed you what he meant, didn't he? He showed you a gold bill, didn't he? A. He told me that he saved some.

Q. Yes. A. This was around when there was talk of inflation; we were afraid.

Q. Yes. Now before you left for Germany, Mrs. Hauptmann, Mrs. Hahn came up to see you, didn't she? A. She was in my house once.

Q. And you showed her your dresses? A. I did.

Q. And talked things over about your trip? A. Yes.

Q. What did you pay for the set of silverware you bought in Germany? You didn't pay much,

did you? A. The chest of silver. I believe 400 marks, something like that.

Q. I see. How much was that in United States money at the time, do you remember? A. Around a hundred dollars.

Q. About a hundred dollars. Now, you remember when your husband came to the Flemington jail, you came down, of course, and you went in to see him on several occasions, early, right as soon as he was arrested, arrested and brought to New Jersey? A. Yes.

Q. Do you remember the time that you were going into the jail and some of the people asked you about your husband in connection with this crime and this case, and you said to them, "I am going in and ask Richard if he is guilty or not," —do you remember that? A. I did not say that to anybody.

Q. You didn't say that? A. I didn't say that to anybody. Why should I ask?

Q. Did you say "I am going in to ask him again"? A. I didn't talk to anybody about such things.

Q. All right, then you didn't say it. Your husband used to travel to Hunters Island on Sundays, did he not? A. Yes.

Q. You didn't go with him, did you, Mrs. Hauptmann? A. Sometimes I didn't. Years ago when I worked I was off only every second Sunday, 28th and 29th, so that Sundays when I have to work, I couldn't go with him.

Q. When did you stop working? A. December, 1932.

Q. December, 1932? A. Yes, middle of December.

Q. And you stopped working because your husband suggested it, didn't he? A. No, I think I worked long enough then.

Q. Yes, I think you did, too. Did your husband suggest it or did you suggest it? A. I don't know who said I should. There was not much work to do anyhow any more in the place and it would be hard to get a job.

Q. Didn't you tell the police that you stopped working because your husband told you to? A. Maybe he said I should stay home.

Q. I see. And at that time in December, 1932, when you weren't working, your husband wasn't working either, was he? A. Yes, he was working in Wall Street.

Q. Wall Street. I see.

Q. In The Bronx proceedings, page 63, you remember being asked this question: "Now, when Inspector Bruckman, when he talked to you about this thing, he talked to you about the Lindbergh kidnaping, didn't he?" And your answer was "Yes, sir." Is that correct? A. Yes, I remember being asked that question.

Q. What is it, madam? A. I was asked that question.

Q. Yes. Well, was it true that Inspector Bruckman, when he talked to you about this thing, that he talked to you about the Lindbergh kidnaping? A. (No answer.)

Q. In other words, when Inspector Bruckman talked to you about your husband being in jail and about the situation with reference thereto, when he talked to you did he tell you that the Lindbergh kidnaping was March 1st? A. I don't know if he said that.

Q. Let me ask you—let me see about the next question: "And he told you that it was March 1st, 1932, didn't he? A. I think he did. I cannot remember." Was that your answer in the Bronx? A. I think it was. I couldn't remember if he asked me that.

Q. And then the next question, weren't you asked the next question and didn't you give the following answer: "And did not he say to you were not you with your husband that night, and did not you say you don't remember?" "Yes, maybe I did say that." A. Will you please read that again to me. I didn't understand.

Q. "And did not he say to you," meaning Inspector Bruckman, "were you with your husband that night," referring to March 1st, "the night of the Lindbergh kidnaping, and did not you say you don't remember," and your answer to that question—wasn't it this: "Yes, maybe I did say that." A. Well, I only can answer it this way: I was asked, somebody asked me about the kidnaping night and I said I was with my husband, but I did not know if it was the 1st of March.

Q. I see. You didn't mean by it—

Mr. Reilly: What page, General?

Mr. Wilentz: 63 and 64.

Q. Then you didn't mean that you couldn't remember as you testified in this Bronx proceeding? A. I didn't mean what?

Q. When you told Inspector Bruckman after he talked to you about the night of the Lindbergh kidnaping, March 1, 1932, and when he asked you whether you were with your husband, you told him you couldn't remember; you didn't mean that, did you? A. I told him I can remember the night of the kidnaping because I remember that night, but I don't think he said anything about 1st of March.

Q. Well now, let me read it to you then and see if it refreshes your recollection: "Now, Inspector

Bruckman, when he talked to you about this thing, he talked to you about the Lindbergh kidnaping, didn't he?" And your answer is "Yes, sir." A. Yes.

Q. That is correct, he talked to you about the Lindbergh kidnaping? A. Yes.

Q. "And he told you that date, March 1st, 1932, didn't he? A. I think he did I can't remember." Do you remember giving that answer? A. Well, I think I give this if it is there.

Q. Yes, ma'am. Therefore when he talked to you, you think he told you that the Lindbergh kidnaping was March the 1st. Now then, after that didn't he say to you "Were you with your husband that night" and didn't you answer you don't remember? A. I answered "I don't remember?"

Q. Yes. A. I don't know that.

Q. You don't know that. And wasn't your answer to that question I just gave you as to whether or not you remembered "Yes, maybe I did say that." Do you remember it? If you don't, say so, madam, I won't press you any more. A. I can't remember. I was asked so many questions there.

Q. When was the first time that this closet was repaired, madam, if you remember, between—well, any time from 1932 on? A. Well, I can't remember that. I can't remember exactly.

Q. Was it fixed at all? A. I don't know if the man fixed it.

Q. You never saw anybody fix it, did you? A. No.

Q. Who was the man that the landlord brought in? A. Once he brought a man, I don't know his name.

Q. Don't know his name? Did you bring anybody in addition? A. But he brought somebody

else. I remember, I know that man well. He done a lot of work in our house.

Q. Did you bring anybody there to fix it? A. Mr. Rauch did.

Q. Did you or your husband? A. No, I didn't.

Q. Mr. Rauch brought somebody? A. Mr. Rauch brought somebody.

Q. And whether he fixed it or not you don't know? A. He told me he would.

Q. When was it, do you know? In 1933 or 1934? A. I don't know, I can't remember that.

Q. You can't remember that. Just one or two other little questions and I will be through. A. Oh, I remember now. Pardon me.

Q. Yes, ma'am. A. We had the baby then, the baby was born.

Q. After November the 1st, 1933, then? A. Yes, we had the baby.

Q. Now, you were down in that garage while the police were tearing it apart, remember? A. No, I wasn't there.

Q. Weren't you there when they found the money? A. I was there when they—they called me down.

Q. Yes, ma'am. A. To the garage that morning. One man said upstairs, "Take her down as a witness."

Q. Yes, "Take her down as a witness"? A. Yes.

Q. And you came down with them, did you? A. And I went downstairs to the garage with them.

Q. Yes, ma'am. A. And when I came down, it was the baby's bed laying there in the dirt, and then one man said to the other, "Look, here is money," and he picked up moneys on the side, a package.

Q. From a piece of wood? A. On the bench somewhere.

Q. All right. Then they tore off some other pieces of lumber and— A. No, I didn't see that.

Q. Well, were you there? A. One man—

Q. Pardon me. All right. A. While I was standing there I looked around. I saw the baby's bed laying there and I ask him why they do that. They didn't answer me.

Q. Did you see this can at the time when they found the can? A. Yes, they brought this after.

Q. And did you see the money in there? A. I saw money there.

Q. Yes. And you saw the money that they found on the side that you just talked about. That was different money from the money in the can, wasn't it? A. Yes, this was wrapped in paper.

Q. Yes. And then did you see the money that they found the third time? Were you there when they found the money the third time. A. What you mean by the third time?

Q. There was some money found on the side, a couple of thousand dollars, then the money in the can, then this board with the holes in it. Were you there when they found this board with the holes in it? A. No.

Q. You were not. Now, you didn't know, did you, that your husband had put money in this can and hid it in the garage, did you? A. I didn't, no.

Q. You didn't know that he had taken pieces of wood and nailed it into the garage to hide money, did you? A. I didn't know anything about that.

Q. Whatever he did in that garage with reference to taking those pieces of board and putting money in them and hiding them, that was done without your knowledge, wasn't it? A. I didn't know anything about that.

Q. You didn't know a thing about it? You don't know when he did it either, do you, Mrs. Hauptmann? A. No, I do not.

Q. And when that money was found it was a surprise to you, wasn't it? A. It was.

Mr. Wilentz: Yes. That is all, thank you, Mrs. Hauptmann.

Mr. Reilly: May I have that closet photograph, please?

Mr. Wilentz: Captain Snook has it. (Exhibit produced.)

Re-Direct Examination by Mr. Reilly:

Q. Your husband was arrested the latter part of September, is that correct? A. Yes.

Q. Last year? A. Yes.

Q. And almost immediately after that a great many police officers asked you questions, is that right? A. Yes.

Q. And it was the 15th of October, was it not, that the hearing was held in the Bronx court? A. I cannot remember when it was. I believe it was that time.

Mr. Reilly: Well, perhaps the Attorney General will stipulate that.

Mr. Wilentz: I think so; whatever you say, Mr. Reilly.

Mr. Reilly: Yes. It appears that the hearing in the Supreme Court was held the 15th of October, 1934.

Q. Now, after Mr. Wilentz asked you the question he has read from the record, page 50, "Question: And did you not tell Inspector Bruckman and others who were there present at the time that you had no recollection at all of what happened March the 1st and that it was too far back, that you don't know whether your husband was with you or not?" And your answer "I did tell him that." And the question "You did tell him that? Answer: Yes." Were you then asked this question: "Now, did you find out later, after you had talked with Inspector Bruckman that the first of March was a Tuesday. Did you find that out later?" And did you answer, "Yes, I was anxious to find it out." Is that correct? A. Yes, that's right.

Q. And then were you asked: "And then did that bring back any recollection of March the 1st, 1932, to you?" And did you answer: "Yes, that is why I remembered so well then." So when they told you it was Tuesday, March 1st was a Tuesday, then you remembered, didn't you? A. Yes, then I knew.

Q. Your hours and that Richard called for you? A. Then I remembered, yes.

Q. Now how long would you say it was, Mrs. Hauptmann, that your baby was born before Fisch had his farewell party at your house? A. Only a few weeks before, the baby was born.

Q. Then I assume you were nursing the baby at the time of the farewell party. A. Yes.

Q. And I assume that you continued some months afterward to nurse the baby, is that correct? A. Some time.

Q. And you told the Attorney General that you had been told not to do any stretching up or out, is that correct? A. Yes, doctor told me so.

Q. Now looking at this closet, Exhibit 264, was

there a part of the closet which extended to the right of the door jamb? A. Oh, the most part of the closet is inside of here. This goes inside. This is only a cut, small piece.

Q. A cut? A. A small piece.

Q. Well, now, do you mean inside, it goes back or do you mean that it goes to the right? A. It goes in deep to the right against the wall.

Q. Deep into the right? Does it take up a certain portion of this space which is indicated here by the plaster wall inside the closet? A. Oh, yes, about that deep, I believe (indicating with hand).

Q. About six or seven inches?

Mr. Wilentz: What is six or seven inches, Mr. Reilly?

Mr. Reilly: To the right of the jamb as you—

Q. Now, Mrs. Hauptmann, how much of the top shelf does this photograph show? A. Well, this only shows that corner here like this (indicating across corner of bench on top). Only a three-corner piece.

Q. It doesn't show at all, does it? A. No, only just the corner.

Q. Now, with the door open, of the closet, it almost touches the sink, doesn't it? A. It does.

Q. It does touch the sink. A. It does touch the sink, I believe; I believe it does.

Q. Standing on the floor how much of the top shelf could you see? A. Oh, I couldn't see the top shelf at all, I only see the out, this here, this part, I could see only, I couldn't see the top (referring to the side of the Judge's bench).

Q. The edge. Well, if you were standing on the floor, considering your height and the height of

the closet could you see the bottles they have in the photograph if those bottles were there? A. Oh, yes, the bottles I could see.

Q. The bottles were there, were they? A. No, there were never any bottles.

Q. Never any bottles there? A. No.

Q. So that when this top shelf on the photograph was taken it had bottles on it that you never kept on the top shelf. A. No, there never were any bottles there.

Q. Do you know who put the bottles on the top shelf— A. I don't know.

Q. —before the photograph was taken? A. I don't know that.

Q. Now, if you stepped into the closet and looked up at the top shelf, how much of the top shelf could you see? A. Oh, just a little bit here like here (referring again to the side of the Judge's bench).

Q. What do you mean by a little bit here? A. I could just see the front.

Q. The front of the top shelf? A. Of the top shelf.

Q. And there isn't any doubt in your mind that on Tuesday, March 1st, your husband was with you between those hours that you have indicated here, is that correct. A. Absolutely not.

Q. He was there, wasn't he? A. I know he was there.

Mr. Reilly: That is all.

The Court: Is that all, Mr. Reilly.

Mr. Reilly: Yes, sir.

Mr. Wilentz: Just one minute, if your Honor please.

Re-Cross Examination by Mr. Wilentz:

Q. Just one minute. Did you speak to your husband this noon time, after you got off the stand? A. (No answer.)

Q. Did you speak to your husband after you got off the stand? A. I believe I said a few words to him here.

Q. Downstairs too? A. Downstairs?

Q. Yes. A. I didn't see my husband, I never see—

Q. Just here? A. Right here.

Mr. Wilentz: All right. That is all, Mrs. Hauptmann. Thank you.

Mr. Reilly: May we have Mr. Manley's name called on the front stoop by one of the boys there, please. We have had trouble in getting him into the courthouse, and I wonder if we could have his name called by one of the State Troopers.

The Court: Let one of the officers call out his name.

Mr. Pope: While we are waiting for this witness, I desire to offer in evidence United States Department of Agriculture meteorological survey for the City of New York for the month of August to show that on Sunday, August the 12th the total precipitation in the City of New York according to the United States survey was .77 inches.

The Court: What day was that?

Mr. Pope: Sunday, August the 12th, 1934.

The Court: Well, I don't just see its materiality. Perhaps it is quite material. What is its purpose?

Mr. Pope: Mr. Hauptmann, the defendant, testified on the stand that it was on a Sunday and it was about the middle of August and that there were heavy showers that day and that the roof leaked.

The Court: Oh, yes.

Mr. Pope: And the water came down through the closet.

The Court: Yes.

Mr. Pope: And we now desire to present the United States Weather Bureau record to show that that was true.

The Court: Any objection to it?

Mr. Wilentz: None at all, sir.

The Court: It will be admitted.

(U. S. Meteorological survey received in evidence and marked D-44.)

Mr. Pope: May I show it to the jury now?

The Court: You may.

Mr. Pope: The precipitation in inches on August 12th is shown in this column.

Mr. Wilentz: What is it?

Mr. Pope: The precipitation in inches is shown in the third column for August 12th, 1934: .77 inches.

Mr. Reilly: Mr. Elvert Carlstrom.

ELVERT CARLSTROM, sworn as a witness in behalf of the Defendant.

The Court: What is the name of the witness?

Mr. Reilly: Elvert Carlstrom, C-a-r-l-s-t-r-o-m.

Direct Examination by Mr. Reilly:

Q. Mr. Carlstrom, when you are responding to the questions, please answer in a voice loud enough for the last juror by the window to hear you—and I shall suspend while the jury is looking at the weather report.

Q. What is your business? A. I am a gardener.

Q. How long have you been in the United States? A. I have been here nearly six years.

Q. Where do you live now? A. In New York, New York City.

Q. What is the address? A. 535 East 78th Street.

Q. Did you ever live in the Bronx? A. Yes.

Q. When did you live in the Bronx? A. The first time was nineteen hundred and—

Q. You will have to speak a little louder. I think I will go over here. A. 1931.

Q. Now if you will turn a little bit this way and speak up loudly we will all hear you. In 1931 you say? A. Yes.

Q. Where did you live in the Bronx in 1931? A. 138th Street, east side.

Q. What was your business then? A. Then I was working as a carpenter's helper.

Q. Where? A. Well, I can't tell you the name of the corporation; all I can tell you is the name of the superintendent, his name was Christiansen.

Q. What street? A. He was living on 135th Street, east side.

Q. What street did you work? A. I was working, the first time I was working on 61st Street and Central Park West and from that building I was working on 76th Street and 10th Avenue; from there I was on 72nd Street and Central Park West, and then I was up in the Bronx, Carpenter Avenue I guess the name was and then 122nd Street.

Q. So that you worked all through the Bronx, is that correct? A. Yes.

Q. Now at any time did you live in the neighborhood of Fredericksen's bakery? A. Yes.

Q. When? A. It was in the last part of 1931.

Q. And how close do you live to Fredericksen's bakery? A. Well, I guess about five minutes' walk.

Q. What was your address then? A. It was Seton Avenue; I don't remember the number of the house.

Q. Seton? A. Seton Avenue.

Q. March 1st, 1932, is a day that you can remember, is that correct? A. Certainly.

Q. And what particular significance has March 1st each year to you? A. It is my birthday.

Q. Have you any documents that you have

brought here to show the date of your birth? A. Yes, I have.

Q. May I see them? A. I have three papers. (Handing papers to Mr. Reilly.)

Q. I show you a card—rather—that is withdrawn.

Q. When did you come to the United States? A. I came here the 14th of May, 1929.

Q. From Sweden? A. Yes.

Q. You are a Swede? A. I am a Swede.

Q. And did you land at the Port of New York? A. Yes.

Q. I show you now the Immigration identification issued by the United States Department of Labor to permit you to enter the United States and ask you whether or not that was issued to you? A. This is my card.

Q. It is your card, is that right? A. Sure.

Q. What is the date of birth on the reverse side of the card? A. It is March 1st, 1908.

Q. It also bears your photograph, is that correct? A. That is right.

Mr. Wilentz: Do you want to put it in evidence?

Mr. Reilly: Well, in case you want to look at it.

Q. Now on March the 1st, 1932, your birthday, where were you working? A. New Jersey.

Q. Where? A. Dunellen.

Q. Now where in relation to Princeton is that? A. I don't know.

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

Q. Well, did you leave Dunellen that day? A. Yes, I did.

Q. For whom were you working at that time? A. Mr. Christiansen.

Q. And what work were you doing for him? A. I was taking care of his house there.

Q. And where did Mr. Christiansen live? Where did his family live? A. On 138th Street, New York.

Q. How long had you been taking care of Mr. Christiansen's house in Dunellen before March the 1st? A. Well, I came out there in the first part of February.

Q. That year? A. That year.

Q. Now, when you left Dunellen on March the 1st, 1932, what time was it? A. I left Dunellen about a quarter to six in the evening.

Q. Now I want you to describe your route from Dunellen wherever you went that evening. Tell the jury. I shan't lead you. A. First I thought of going to Plainfield to movie, but then I changed my mind because when I was standing there waiting for trolley car there came automobile and drove up, and the driver asked me if he was on the right road for New York, and I said yes. Then I asked if I could get a lift to Plainfield and he said yes.

Mr. Wilentz: Just a minute. I didn't want to, but since this seems to be a conversation with somebody not connected with this case, so far as we know, I object to it, if your Honor please, as not being material to this cause and not at all applicable to any situation that has as yet come up in this cause, what some stranger said to him in Plainfield, New Jersey.

Mr. Reilly: I have no objection to that being stricken out, sir.

Mr. Wilentz: I don't want it stricken out; I want it to stop here.

Q. Tell us what you did and not what you said.

The Court: It will be stricken out.

A. I went into the car and we drove to New York. When I came there, I came to New York City, I should say about a little after seven o'clock in the evening, then I went up to 42nd Street by the subway, and from there I went down to 41st Street on the East Side, because I had two friends living there. I went up there to see if they were home and I rang the bell, but I didn't get any answer, so then I hang around there for about, I should say a quarter of an hour or something and was waiting if somebody would come home. They didn't come home. Then I went up to the Bronx, to Dyer Avenue.

Q. Dyer Avenue? A. Dyer Avenue. I took the train from 42nd Street, Third Avenue elevated line up to 133rd Street. From there I took the Boston Westchester train up to Dyer Avenue, and from there I went on to the bakery.

Q. Which bakery? A. Fredericksen bakery.

Q. Fredericksen was a Dane, wasn't he? A. Yes, sir, he was Danish.

Q. Now, when you lived in that neighborhood, were you in the habit of eating in Fredericksen's bakery? A. Always.

Q. And when you entered Fredericksen's bakery, what time would you say it was? A. I should say about half past eight in the evening.

Q. And how many times before that had you eaten in Fredericksen's bakery? A. I was eating there every night and every morning for about two and a half months.

Q. Now, did you see anyone in the bakery when you entered the bakery that you recognized, in the court room? A. Yah.

Q. Who? A. I see Mrs. Hauptmann. She was a waitress.

Q. And how long had you known Mrs. Hauptmann as a waitress in that bakery? A. From the first time I came in there.

Q. Had she always waited on you? A. Not always because I preferred to get waited from Mrs. Fredericksen because I could speak Swedish to her; I could not speak Swedish to Mrs. Hauptmann.

Q. Well, on this particular night, March the 1st did Mrs. Hauptmann wait on you? A. Yes.

Q. And how long were you in there? A. I was in there, I would say, twenty minutes.

Q. Now, while you were in there did you see anybody else? A. Yes, I did.

Q. That you see in the court room? A. Yes, I did.

Q. Who? A. I saw that fellow sitting right down there.

Q. Indicating whom? A. He is sitting right down there.

Q. The defendant? (The defendant stands up.) A. That's right.

Q. And where was he, in the bakery? A. He was sitting at the front table, all the way in the front there, when I saw him.

Q. Did you know he was Mrs. Hauptmann's husband? A. No, I did not.

Q. Did you know he was Mrs. Hauptmann's husband? A. No, I did not.

Q. And what was he doing at the table? A. The way it looked to me he was reading newspaper or something.

Q. You are sure he was in there? A. I am sure.

Q. And you are sure it was March the 1st, 1932? A. Yes, I am sure.

Q. How did you become a witness in this case? A. Because first I told my friends about what I know about this here, about the trial, and then they insisted I should tell Mr. Reilly about it, but I didn't do it.

Mr. Wilentz: I move that—

Mr. Reilly: All right.

Q. Did you see the picture of the defendant in the paper after his arrest? A. Yes, I did.

Q. Did you associate that picture with the man that you had seen in Fredericksen's restaurant March the 1st? A. Yes.

Q. Well, who did you notify, if you didn't notify Mr. Reilly? A. There was another man notified Mr. Reilly, I told what I know about it.

Q. A man that you told notified Mr. Reilly in this defendant's cause, is that correct? A. Yes.

Q. That is how you came to be a witness today? A. That is right.

Q. You do not know Hauptmann, do you, personally, you are not a friend of his? A. I am not.

Q. You do not know me. A. No.

Q. Well, do you know any of the other gentlemen of the defense here? A. I don't know anybody around here.

Mr. Reilly: You may inquire.

Cross Examination by Mr. Wilentz:

Q. That man— Why did you point at that man? You knew his name was Hauptmann, didn't you? A. Not at that time.

Q. Well, you knew that today when you came into this court. A. Yes, because I read it in the news—

Q. Why didn't you say Hauptmann, instead of saying "that man"? Was that an act? A. It was not.

Q. Why didn't you say "Hauptmann"? You have read his name, you have seen his pictures day in and day out. Who told you to point out and say "that man" instead of saying "Hauptmann"? A. Nobody did.

Q. You saw Hauptmann in that bakery that night, didn't you? A. I did.

Q. No question about that? A. No question.

Q. You learned his name was Hauptmann after the case, didn't you? A. Because I read it in the newspaper.

Q. Yes, and you saw his pictures. A. Yes.

Q. No question about that. Saw it every time you looked at a paper since his arrest. A. Every time I saw it it was a different kind of pictures. It was one certain picture I recognized.

Q. What picture was that? A. It was when he was talking to, I think it was, Mr. Reilly, he was standing at the side on the side of the picture. That's the one, I recognize the man.

Q. You read the newspapers, don't you? A. I used to read the Journal.

Q. Well, the Journal has a lot of pictures in it every day, haven't they? A. Yes.

Q. Every page pretty nearly of the Journal has pictures of this case, isn't that so? A. That's true.

Q. And has had since his arrest. A. Yes.

Q. You read the Journal in 1933 and you read it in 1934, isn't that so? A. I did not.

Q. What did you read in 1933? A. The Swedish newspapers.

Q. Swedish newspapers, what did you read in 1934? A. '34, then I started reading the American newspapers.

Q. When? A. I should say, well, in the beginning of the year.

Q. In the beginning of the year? A. I should say so.

Q. 1934. You began to read and you have been reading them ever since. A. Yes.

Q. And you have been reading the New York Journal? A. Yes.

Q. Have you stopped reading Swedish newspapers? A. No.

Q. Still continue to read them? A. Yes.

Q. What did you say your name was? A. Carlstrom.

Q. How do you spell it? A. C-a-r-l-s-t-r-o-m.

Q. When did you change the "K" to the "C"? A. When I came over to this country.

Q. Your name was Karlstrom, K, wasn't it? A. Yes.

Q. You have changed it to "C"? A. In Sweden we always spell with "K," but over in this country we spell with "C."

Q. Now, you were in that bakery, Fredericksen's bakery? A. Yes.

Q. And you remember that, don't you? A. I certainly do.

Q. Yes. Do you have a lot of friends in this country? A. I have not.

Q. Have you any friends? A. Yes, I have.

Q. You didn't have a birthday party March the 1st, did you? A. I didn't have it.

Q. No. But at any rate your birthday is March the 1st? A. Yes.

Q. And you were in this bakery? A. I was.

Q. How many people were in there? A. (No answer.)

Q. How many? A. I should say about, about—I would say four or five, and I think I am sure.

Q. Four or five? A. Four or five.

Q. Of course, you mean four or five besides you and the waitress? A. Including myself.

Q. Including yourself? A. Yes.

Q. And besides the waitress? A. Yes, I should say so, but I can't say for sure.

Q. You should say so but you can't say for sure? A. Not for sure.

Q. You mean you are not sure whether it is four or five? A. No, because when they are sitting down this way—

Q. Never mind the because, you have given the answer. Now, you were there, weren't you? A. Yes, sir, I was.

Q. And the waitress was there? A. Yah.

Q. And when you say four or five, you mean four or five including you, but exclusive of the waitress? A. Yah.

Q. Men or women? A. I think I saw only Mrs. Hauptmann was the women.

Q. All men? A. I think so.

Q. Tall men, short men, dark men, light men, what kind of men? A. They were all sitting down at the tables, I don't know how high they were, how tall they were.

Q. Well, they had their hats on, didn't they? They had their hats on, didn't they? A. They usually have in the restaurant.

Q. Never mind the usual thing. Did they have their hats on? A. Yes.

Q. What was the color of their hair, do you remember that? A. I can't remember.

Q. Do you remember the color of the hair of any man you saw in there that night? A. Yes.

Q. What was it? A. It was dark, it was darker than my hair.

Q. Darker than your hair? A. Yes.

Q. Was it black hair? A. It was not black.

Q. Brownish hair, blond hair? A. I should say—

Q. Dark colored or what? A. I should say dark brown. I don't know how you say it in the English.

Q. Dark brown.

Q. Dark brown. What else? Anybody else's hair? A. Yes, I saw the waitress' hair.

Q. The waitress? A. Yes.

Q. Anybody else? A. That is the only people I—

Q. That is the only people you observed? A.—I observed.

Q. You observed the waitress? A. I did.

Q. And you observed the other gentleman with the dark brownish hair or something like that? A. I did.

Q. Would you say it was dark brown? A. It looked like dark brown, yes.

Q. Dark brown? A. Yes, it was darker than my hair.

Q. When was the last time you saw Hauptmann? A. The last time I saw him was on that evening.

Q. That evening? A. Yes.

Q. When was the first time you saw him? A. When I came into this courtroom.

Q. The first time. A. Oh, the first time?

Q. That evening? A. That evening.

Q. You saw him the first time that evening and you saw him the last time that evening, exclusive of your appearance in court? A. That is right.

Q. And that man that you saw in that bakery that night, March the first, you only saw him once? A. I saw him once.

Q. You would remember him as long as you lived, wouldn't you? A. I do.

Q. Certainly. Was it his eyes? A. No, it was—

Q. What was there about him? A. Because he was laughing at me in the bakery.

Q. Yes. All right. He was laughing at you. But what was there about him that impressed itself upon your mind so that you would remember his face as long as you lived? A. Because I got mad at him and when I got mad at somebody then I remember the face.

Q. Yes. You only saw him once, though? A. Only once.

Q. What did you see about that face when you looked at it? What was there about it? A. Was —well, it is hard to tell.

Q. Do you remember anything about his face as you saw it in that bakery? A. Do I—

Q. Never mind looking at him. Look at me. A. Yes.

Q. What did you see about his face that night? A. He had a oval face—oval is what you call it?

Q. Well, I don't know. I can't help you because I don't know what you are saying. A. I can't explain it.

Q. Say it again. A. Oval.

Q. Oval face? A. Oval face.

Q. What do you mean by oval face? A. It was straight.

Q. Well, did he have a full mouth, a sharp chin, or a wide chin, or what? A. He said—what you call chin is here?

Q. Chin, yes, chin. A. Sharp.

Q. A sharp chin? A. Not so sharp, but I think it was sharper than mine.

Q. You think it was sharper than yours but not so sharp? A. Yes.

Q. What kind of eyes did he have? A. I think he had blue eyes, if I am not mistaken.

Q. If you are not mistaken, he had blue eyes.

If you are mistaken, he had other eyes, is that what you mean? A. That is not what I mean.

Q. Were his eyes deep set or were they out like yours or like mine? A. They were deeper set. I guess they were deeper than yours.

Q. How about yours? A. I can't see my eyes.

Q. Were they set very deeply so that you could tell they were different than any other eyes you had seen? A. I could not.

Q. You could not? A. No.

Q. You only saw that man that evening for how long? A. I saw him for about twenty minutes.

Q. Twenty minutes? A. Yes.

Q. Now, you had been reading the New York Journal and seeing the pictures and you had been reading about the Lindbergh case, hadn't you? A. Well, not much because I— it is awfully hard to read English.

Q. Awfully hard? A. Yes.

Q. It wasn't awfully hard to read the pictures and see him, was it? A. Because I don't have to read the pictures.

Q. You could see them. A. Yes.

Q. And you saw these pictures every time you saw the New York Journal; you looked at the pictures, didn't you? A. Not always.

Q. Well, they are very interesting, aren't they, these pictures? A. Sure they are.

Q. That's the first thing that attracts you as you look at them. A. Sure.

Q. Isn't that so? And you saw pictures of the man that was accused of this Lindbergh crime, didn't you? A. Yes, yes, I saw the picture.

Q. You listen to the radio, do you? A. No, I don't.

Q. Never? A. Because I haven't got any radio.

Q. Never mind the because. Do you hear the radio at all? Do you listen to it at all? A. No.

Q. You haven't listened to a radio or heard a radio in 1934? A. Yes, I have.

Q. Where? A. When I was living in—on Long Island.

Q. On Long Island? A. Yes.

Q. When did you live on Long Island? A. I was living there last year.

Q. That is 1934? A. Yes.

Q. When did you stop living there? A. I went into New York from Long Island the first or the second Friday in November.

Q. 1934? A. 1934.

Q. That is when you moved there? A. That is when I moved in from New York.

Q. Into Long Island? A. From Long Island into New York City.

Q. November, 1934? A. Yah.

Q. When did you move into Long Island? A. I think it was the 22nd of April, 1934.

Q. So you lived in Long Island from April 22nd— A. Yah.

Q. —until November? A. Yes, that is right.

Q. Did you read the newspapers while you were living in Long Island and see the pictures in the papers? A. Yes.

Q. Quite regularly? A. Not regularly.

Q. Well, not every morning, noon and night, but every day? A. Yes, I almost did.

Q. Almost every day? A. Almost every night I bought the paper.

Q. Did you read the story about the murder of the Lindbergh child? A. I don't think I did.

Q. Did you read about the case? A. I did.

Q. You did that? A. Yes.

Q. That is in 1934. You had been reading in the Swedish papers, too, hadn't you? A. No.

Q. What papers, Swedish paper do you read— Did you read then? A. Nord segernan.

Q. Is it published in this country or in Sweden? A. In this country.

Q. And you were reading that as well as the New York Journal? A. Yes.

Q. Did you see in that newspaper accounts of the Lindbergh case? A. I don't think I did.

Q. Did you see pictures of a man who had been arrested and charged with the murder of the Lindbergh child? A. You mean in the Swedish newspaper?

Q. Yes, in the Swedish newspaper. A. I did not.

Q. Did you read stories in the Swedish paper —were there any stories in the Swedish paper about the arrest of a man who was charged with the murder or charged with some other crime in connection with the Lindbergh kidnaping? A. Was not.

Q. You never read any in there? A. I did not.

Q. A newspaper published in this country, a Swedish newspaper? A. A Swedish newspaper.

Q. And the name of that paper is what? A. Nord Segernan.

Q. That is published in New York? A. I think it is published in Brooklyn.

Q. You saw no pictures in that paper? A. Not what I know of.

Q. Did you see any picture of the man who it was said was arrested for any crime in connection with the Lindbergh case? A. I did not, not in the Swedish newspaper.

Q. Did you see the picture of any man arrested in connection with this case—did you see any of those pictures in the Journal? A. I did.

Q. You had been reading the paper during the entire year of 1934? A. Yes, not intirely the year, because I started in the beginning of the year.

Q. Well, at any rate in September, 1934, you were reading it. A. I did.

Q. In October, 1934, you were reading it? A. Yes.

Q. In November, 1934, you were reading it. A. Yes.

Q. In December, 1934, you were reading it? A. Yes, that's right.

Q. That's right? A. That's right.

Q. You saw the pictures then. A. (Witness nods affirmatively.)

Q. You are shaking your head yes, but we want it in the record. A. Yes.

Q. You saw the pictures? A. Yes.

Q. Lots of them? A. Lot of them.

Q. Pictures of a man in a court room, pictures of a man outside the court room, the same man arrested for the case. You saw that? A. Yes.

Q. You saw his poses while sitting on the chair in the court room in the Bronx and saw him while he was off the chair, isn't it so? A. I saw a lot of pictures in the paper.

Q. You saw him with his lawyers' pictures, the man and the lawyers that represented him. A. Yes, I did.

Q. You saw pictures of him as he marched into the court room in the paper, did you not? A. I think I saw some of them.

Q. And you saw pictures of the man as he was going out of the court room. A. Maybe I did.

Q. You saw pictures of the man standing before the court in the Bronx, didn't you, with two men alongside of him as he was facing the Judge. A. I don't remember if I ever saw it.

Q. Don't you remember the pictures of this man in the Bronx County Court house? A. Not every picture.

Q. Not every picture, but some of them? A. Some of them.

Q. You never recognized those pictures, did you? A. No, I did not.

Q. That was not the man you saw in the bakery that night in those pictures, was it? A. I didn't look at them so very well then.

Q. That was not the man you saw in that bakery that night, was it, the pictures you saw at that time? A. I don't know.

Q. You wouldn't say it was, would you? A. Because I never did look so carefully on them pictures.

Q. Not the "because"; when you saw those pictures you didn't recognize that as being the man whom you saw in Fredericksen's bakery on March 1st, did you? A. I couldn't tell, because I—

Q. You couldn't tell? A. I couldn't tell.

Q. Never mind the because, you couldn't tell. Now, let's see; you have been in this country how long? A. I been in here nearly six years.

Q. April 3, 1929, is that when you came here, some time in April? A. I never did come in April. I came to New York City the 14th of March, 1929.

Q. 14th of March? A. That is right.

Q. 1929? A. Yes.

Q. And you are how old now? A. I am almost 27 years old.

Q. And when you came to this country you landed in the City of New York? A. I did.

Q. Did you have relatives here at the time? A. Yes.

Q. And did you come to see them? A. Yes.

Q. Where did you live when you first arrived in New York? A. The first place I was living was 98th Street near Madison Avenue.

Q. What number 98th Street did you live at that time and with whom? A. It was 4 East 98th

Street. The people I was living with, their name was Petersen.

Q. How long did you live at 98th Street with Petersens? A. About—about two weeks.

Q. What did you do during those two weeks? Were you employed? A. I was not working.

Q. All right, sir. Now, after you lived there for two weeks, where did you go to live? A. In the same house, in another apartment.

Q. With whom? A. I was living alone there.

Q. Alone? A. Yes.

Q. In an apartment? A. Yes.

Q. How long did you live in the apartment alone? A. I was living there for about two months, because my brother—

Q. Two months? A. My brother paid the rent for two months.

Q. Were you employed at the time? A. I was not.

Q. All right. Now, then— A. Yes, I was.

Q. You were? A. I was, yes. I was working down at the post office.

Q. Doing what? A. 33rd Street. I was working on the street behind there, the post office, they was laying in new street.

Q. For whom? A. The contractor's name was—

Q. Well, it was some contractor? A. His name was Anderson and I forgot his name—

Q. Was it Anderson? A. Anderson was the first and there was two partners.

Q. Anderson and some partners? A. Yes.

Q. All right. That is two weeks. And then two months. Then where did you go to live? A. Then I moved downstairs in the same house with Klingstrom.

Q. Flingstrom? A. Klingstrom.

Q. Klingstrom? A. Yes.

Q. K like in Karlstrom? A. That is right.

Q. Did he change his to a "C" or did he maintain the "K"? A. He still keeps his "K" there, I guess.

Q. Still kept the K? A. I guess so.

Q. All right. And how long did you live with Klingstrom? A. And I lived there to the first part of May 1931.

Q. Until the first part of May 1931? A. That is right.

Q. And what did you do during that time? A. I was not working, only a few days.

Q. Only a few days from May 1929 to 1931, except for the time you worked for this contractor Anderson? Is that right? A. From the 14th of May 1930—

Q. From the 14th of May, 1930? A. That is right.

Q. Until what month in 1931? A. The beginning of May 1931.

Q. You only worked a few days? A. Only a few days.

Q. Now, prior to May 1930, how much did you work? A. You mean before?

Q. Before May, 1930, yes. A. I was working in Waterbury, Connecticut.

Q. Oh, you got up to Connecticut. Where were you living when in Connecticut? A. I came from Sweden up to Connecticut to my brother. He was living in Waterbury.

Q. How long did you live in Waterbury? A. Just one year, exactly one year.

Q. What year is that? A. I came on the 14th of May 1929.

Q. Yes. A. And I left Waterbury the 14th of May, 1930.

Q. So the first place you lived when you came

to the United States was Waterbury, Connecticut? A. That is right.

Q. And you lived there until May 1930? A. That is right.

Q. And during that time you worked? A. Yeh.

Q. The whole year? A. Not the whole year.

Q. How much? A. I should say I had three weeks, three or four weeks, and then I was off about maybe a month, and then I had a few days, then I started work steadily.

Q. Well about how much altogether would you say during that year you didn't work or did work? A. Well, altogether I did work—

Q. Your best judgment. You don't have to be exact about it. A. About four and a half months.

Q. Four and a half months out of the year? A. Yah.

Q. By whom were you employed? A. First I am employed, his name was Olander.

Q. Doing what? A. I was carpenter, doing carpenter.

Q. What? A. Builder, he was a builder.

Q. You were a helper? A. Yes.

Q. A carpenter's helper? A. That is right.

Q. All right, who else did you work for? A. And then I was working with another fellow, his name was Petersen.

Q. Petersen, and Olander in Hartford or Stamford or Waterbury? A. In Waterbury.

Q. In Waterbury. Then you came to New York? A. Then I came to New York.

Q. And then you started to live in that room for two weeks? A. Yah.

Q. Then you moved upstairs, was it, for two months? A. Yes, on the same floor.

Q. Same floor for two months? A. I had an apartment.

Q. And then in another apartment. What was

the last name you gave me Kling— A. The last man I was living with there his name was Clingstrum.

Q. Clingstrum? A. Right.

Q. Was that on the same floor in the same building or a different building? A. It was the floor above.

Q. Floor above Clingstrum? A. It was the third floor.

Q. That takes us up to May, 1931, doesn't it? A. Yes.

Q. Now from 30, May, 1930, to May 1931, you worked hardly at all, just a few days? A. That's right.

Q. And from May, 1931, you went to live where? A. In the Bronx.

Q. Where? A. 138th Street.

Q. What number? A. I don't remember the number.

Q. You don't remember the number? A. No.

Q. With whom did you live there? A. His name was Larsen.

Q. Larsen? A. That is right.

Q. How long did you live there with Larsen? A. Then I lived there until—I think they moved in—in the middle of October, then they moved up to Seton Avenue, and I moved with them up there.

Q. You lived with the Larsens. A. Yes.

Q. In the Bronx. A. Yes.

Q. Until they moved up to Seton Avenue. A. That is right.

Q. How do you spell Seton? A. S-e-t-o-n.

Q. Seton Avenue, is that in the Bronx? A. That is in the Bronx.

Q. What number? A. I don't remember the number of the house.

Q. How long did you live with the Larsens in the Bronx, that part of the Bronx before you

moved to Seton Avenue? From May, 1931 you lived with them? A. Yes.

Q. Until when did you move? October, 1931? A. I think I moved in the middle of October—in the beginning of October.

Q. And you lived in a house from May, 1931, till October, 1931, without knowing the number? A. What? Excuse me.

Q. You lived with Larsen. A. Yes.

Q. On this street in the Bronx, from May until October, 1931, is that right? A. That's right.

Q. Five months, about. A. Uh huh.

Q. What is the name of the street? A. The first street where I was living was 138th Street.

Q. 138th Street. With the Larsens. A. With the Larsens.

Q. For five months? A. That's right.

Q. Apartment house? A. Yes.

Q. How many floors? How many stories? A. That's—

Q. Well, you ought to know what sort of a building, how many stories? A. I was living on the second floor.

Q. How many stories to the building? A. I don't know.

Q. What kind of a building, brick or frame? A. Brick, I guess.

Q. How many families? A. On that floor was—was two families.

Q. You don't know how many stories to the building? A. I don't remember.

Q. Don't know how many floors? A. I don't remember.

Q. Did it have elevator service? A. No.

Q. It did not? A. They didn't have elevator service.

Q. Did they have a janitor? A. I guess so they had.

Q. How many families on your floor? A. On my floor where I was living was two, so far as I know.

Q. Two. What do you mean, so far as you know? Don't you know how many families were living on the floor? A. There was one door this way, and there, and that way was Larsen living, and there was another door this way (indicating) and I guess there was another people living there, I don't know, I never saw them.

Q. You were on the second floor, weren't you? A. Yes.

Q. Was there a third floor, a fourth floor, a fifth floor? A. I was never up there.

Q. Was there a third floor? A. I guess it was.

Q. You guess it was? A. I guess it was.

Q. Why, you lived in that building for five months. A. Yes.

Q. And you don't know whether there was a third floor to the building? A. It must be a third floor because—

Q. Why must it be? A. Because there is high buildings there.

Q. Not there. I am talking about that building. A. Yes.

Q. Where you lived with Larsen. A. Yes.

Q. Was that a high building? A. It was not so very high.

Q. Was it high enough to have a third story? A. It certainly was.

Q. Well, was there a third story? A. I don't know because I never was up there.

Q. Did you ever see anybody go up to a third floor? A. (No answer.)

Q. What do you have to hesitate and guess about it for?

Mr. Reilly: Wait a minute. I object I think he should be permitted the same

courtesy that we extended to your witnesses.

Mr. Wilentz: Never mind about the courtesy. May I suggest, if your Honor please, I don't need any scolding from counsel.

Mr. Reilly: I am not trying to scold you.

Mr. Wilentz: This witness is here about a place where he lived for five months, and he is asked a simple question, did he ever see anybody walk up to the third floor, and he hesitates and guesses.

Mr. Reilly: And I think the witness should be accorded an opportunity to answer, and should be treated in a gentlemanly fashion, and not brow beaten and broken down this way.

The Court: I don't see anything irregular about his examination.

Mr. Reilly: He doesn't give him an opportunity to answer. A man has to think about matters a couple of years back, if there was a third or fourth floor; and because he is not on the button, he jumps the next question at him.

The Court: I will say to the witness now and to the Attorney General, that the witness is, of course, to be accorded a reasonable opportunity for reflection before answering these questions.

Mr. Wilentz: If I am offending the Court I want your Honor to know that the slightest suggestion to that effect will cause me to stop right here in my track.

The Court: No, I haven't observed anything irregular in this examination thus far, but of course I do remark that the witness ought to be accorded a reasonable opportunity to reflect.

Mr. Wilentz: Yes.

By Mr. Wilentz.

Q. Now, will you answer the question? Did you ever see anybody walk up to the third floor from the second floor in that building? A. I guess I saw.

Q. You guess you did. Do you guess you saw Hauptmann in the Bakery that night? A. No, I don't.

Q. That you are sure of, aren't you? A. I am sure of it.

Q. You didn't live in that bakery with Hauptmann five months, did you? A. I did not.

Q. But you lived in that building for five months? A. I did.

Q. And you guess you saw somebody walk up the steps? A. Yah.

Q. Why, you never saw any steps in that building, did you, going up to the third floor? A. I saw them, because I went upstairs many times.

Q. So there was a third floor, wasn't there, and you know it? A. I never went up on the third floor.

Q. What? A. I never went up on the third floor —yes, on the third floor, but never on the fourth.

Q. Oh, now boy. A. I went two stairs up, two stairways, then—

Q. Now you tell the truth, please. A. Yes, I tell the truth.

Q. Take your time now. A. Yes.

Q. Because you are stumbling up to the fourth floor now and you didn't know there was a third floor, isn't that a fact? A. What I mean is two stairways—

Mr. Pope: I object to that remark of the Attorney General. I suggest there was absolutely no call for it at all. It is not based upon fact, and that it is extremely irregular.

The Court: The remark of the Attorney General may be stricken out. The Attorney General may proceed with his examination.

Q. Do you belong to a carpenters' union? A. I don't.

Q. Do you belong to any society? A. Yes.

Q. Anybody talk to you about this case in that society? A. No.

Q. You walked up to the third floor of this building, didn't you? A. If you call it third floor after two stairways, then I walked up on the third floor.

Q. Was there a third floor to this building, third story? A. I don't get you.

Q. Was there a third story to this building where you lived with the Larsens? A. Third floor?

Q. Yes. A. Yes. I was living there, if you call it the third floor, from when I walk up two stairways.

Q. Well, when you lived on the second floor, we will make it— A. I was living—

Q. You lived on the second floor with Larsen, didn't you? A. No, I always walked up two stairways—

Q. Please answer the question now. A. Yeh.

Q. You lived on the second floor with Larsen, didn't you? Well, isn't that what you testified to just before on direct examination, or cross? A. Yeh.

Q. Did you live on the second floor? A. If you count the ground floor, it was the third floor.

Q. Did you live with Larsen? A. I did.

Q. Where? A. On 138th Street.

Q. What number? A. I don't remember the number.

Q. What kind of building? A. Was a big building.

Q. First floor or second floor? A. I went up two stairways when I went upstairs.

Q. You testified before it was the second floor: is that correct? A. (No answer.)

Q. Well, you went up two stairways? A. Two stairways.

Q. When you went up two stairways, that was where you lived? A. That was where I live.

Q. One family, the Larsens, and some other family? A. Yes.

Q. What was the name of your neighbor next door? A. Don't know.

Q. Do you know the name of any family in that building? A. I don't.

Q. Did you ever go up to the third floor, the floor right above yours? A. I never did.

Q. You never did? A. (Shakes head.)

Q. Didn't you tell us a moment ago you went up to the third story or did you mean the third set of steps? A. No, I never went further up than two stairways up. I never went further because I was living right there.

Q. Didn't you testify just a few moments ago that you did go up the third flight of steps, the the third story? A. Not the third flight.

Q. And didn't you say "Not the fourth but the third"? A. Not the third flight.

Q. Not the third flight? A. I never did.

Q. Did you ever see the third flight? A. Yes, I did.

Q. You did see it? A. I did.

Q. There were stairs? A. I guess it was—Yes, it was.

Q. Oh, now you are guessing? A. No. Yes, it was.

Q. It was? A. Yes.

Q. You lived there for five months? A. I was living there from the first part of May to the middle of October.

Q. Where were you working at that time? A. I was working for Mr. Christiansen. He was the superintendent for a company.

Q. What company? A. I don't remember the name of the company, but the first name was Reliance and the following names I don't remember.

Q. Do you mean the Reliance Property Management Company? That is what you mean, don't you? A. I don't know.

Q. Are you related to Mr. Pesker? A. No.

Q. Do you know him? A. No.

Q. The fellow that got you the job at the Reliance? A. No. The man who got me the job at Reliance, I knew him very well.

Q. What was his name? A. His name is Eric Christiansen.

Q. Where does he live? A. In Sweden.

Q. When did he go to Sweden? A. He went there 19— 1933.

Q. Do you know the name of the superintendent on the job? A. Yes.

Q. On that job, the Reliance job? A. Yes.

Q. What was his name? A. Christianson.

Q. Is that the man? A. That is his brother.

Q. His brother. Where is he now? A. I guess—I don't know where he is living now, but I guess he is living in Dunellen.

Q. What business is he in? A. He was superintendent for the company.

Q. What company? A. They were putting up, let me see now, fireproof doors and door frames.

Q. Where is their factory? A. I don't know.

Q. What did you do? A. I was carrying those door frames around on the job.

Q. Who worked on that job at that time that you know and whose address you know now? A. I know the name of them, but I don't know the address.

Q. You don't know where they live? A. No.

Q. Now five months you lived up in that building? A. Yes.

Q. You don't know whether it is a brick or a wood building, do you—well, if you don't know say so, please. A. It is a brick building.

Q. It is a brick building? A. Yes, sir.

Q. What side of the street? A. Well, it is on the— on that side, when you turn around from Willis Avenue and go down on your—

Q. You don't know whether it is north, east, south or west? A. All I know it is this side.

Q. The east side of the street? A. East—east-north, I guess, yes, the east side on the uptown side of the street.

Q. Well, as you are going up to the Bronx, is it on the right hand side? A. On the uptown side.

Q. On the uptown side. Now, we will get back to that building a minute that you lived in for five months with Larsen. Where does Larsen live now? A. I don't know.

Q. You don't know. What did Larsen do for a livelihood? A. It was carpenter— he was a painter.

Q. Who introduced you to Larsen? A. His—

Q. Christianson? A. Yah.

Q. The fellow that is in Sweden? A. Yah.

Q. Anybody that is now living in the United States that knows you were living with Larsen? A. Yes, there is.

Q. Who? A. Larsen does.

Q. Only Larsen? A. Mrs. Larsen.

Q. Mr. and Mrs. Larsen? A. Mr. Christianson does.

Q. He is in Sweden, isn't he? A. No, his brother is in Sweden.

Q. Where is he now? A. Mr. Christianson?

Q. Yes. A. I guess he is living in Dunellen, I am not sure.

Q. You are not sure? A. No, because it was his house I was taking care of.

Q. But you don't know whether he is living there or not? A. I don't know.

Q. What kind of heat did you have in the building, steam heat or just a stove? A. It was—

Q. You don't remember that, do you? A. Yes, let me think.

Q. You have got to think about it? A. It was steam.

Q. Is that it, sir? A. It was steam heat.

Q. Steam heat? A. Yes, it was.

Q. Where were you last March, 1933? A. Where were I?

Q. 1934. A. In Waterbury.

Q. In Waterbury? A. Yah.

Q. Can you give us any idea about how many families lived in this building, the number of which you don't know, when you lived with Lar-

sen for about five months in the Bronx? A. I can't tell you that.

Q. You haven't the slightest notion whether it is a hundred families or whether is is two families? A. No.

Q. The only thing that you are sure of is that there was one family Larsen and there was a family next door? A. There was a family below, I know that.

Q. A family below? A. Yah.

Q. Do you know who they were? A. No, I don't.

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

Q. You didn't know the people next door to you and you didn't know the people downstairs? A. I don't.

Q. Where do you live now? A. 535 East 78th Street, New York City.

Q. 538— A. 535.

Q. East what? A. East 78th Street.

Q. New York City? A. New York City.

Q. And where are you working now? A. I am not working.

Q. You are not working? A. No.

Q. Now let us go from May, 1931, that is when you left this building with Larsen, this home with Larsen. You moved with Larsen to some other place. Where did you move to? A. To Seton Avenue.

Q. Seton Avenue? A. Yes.

Q. How far away is it from the place where you did live with Larsen, the Seton Avenue address A. From Seton Avenue to 138th Street, is that what you mean?

Q. Yes, sir. A. There is 138th Street and Seton Avenue—well, he was near 233rd Street.

Q. Near 233rd Street? A. Yah.

Q. In the Bronx? A. In the Bronx.

Q. How close to Hauptmann's home. A. I don't know. I don't know where Hauptmann lived.

Q. You don't know? A. No.

Q. You know where Woodlawn Cemetery is, do you? A. No.

Q. You are not familiar with the Bronx, are you? A. I am not.

Q. You are not? A. No.

Q. But you moved up there with Larsen? A. I did.

Q. In May—in October, 1931? A. In October, 1931, that is right.

Q. That is right, isn't it? A. That is right.

Q. You are sure of the year now? A. Yes, I am sure.

Q. October, 1931, with Larsen? A. Yes.

Q. Up there to 200 what? A. 233rd Street and Seton Avenue.

Q. To Seton Avenue? A. Seton Avenue.

Q. Yes. What number did you say? A. 233rd Street, that is the nearest street.

Q. Corner, is it a corner. A. It is not on the corner, but it is not so far from 233rd Street.

Q. What was the number of it? A. I don't remember the number.

Q. You don't know the number of the Seton Street— A. It was the last house in the woods.

Q. Last house in the woods? A. Yah.

Q. You live there with Larsen? A. I did.

Q. Do you know how many families were in that house? A. There was two families.

Q. Just a two-family house? A. Yes.

Q. What was the name of the other family? A. I don't know.

Q. How long did you live there? A. I was living there two, about two and a half months.

Q. October, November, December? A. December.

Q. When did you move out? A. The first part of January.

Q. Did you spend Christmas there? A. I spent my Christmas in Waterbury, Connecticut.

Q. But you moved out early in January? A. Yes, that is right.

Q. When you moved out, did the Larsens stay in? A. Yes.

Q. Do you know whether they are living there now? A. I don't know.

Q. You haven't seen them since? A. No, I haven't.

Q. You don't know the name of the other family that was in the two-family building? A. No, I don't.

Q. Did you ever meet any of them? A. No, I haven't.

Q. Did you ever meet them while you lived there? A. Maybe I did.

Q. But if you did, you didn't recognize them? A. No.

Q. You don't know whether you saw anybody who lived in that house with Larsen? A. I don't think I could recognize them.

Q. Whether you could recognize them or not you didn't see them at the time, did you? A. No.

Q. You spent two and a half months there in the Larsen home on Seton Avenue? A. Right.

Q. And you never saw a soul in that building? A. Only when I came home and when I left.

Q. Only when you left and only when you came home and only when you were there you never saw a soul there outside of the Larsens. A. I did not.

Q. That brings us to January, 1932, I think. A. That's right.

Q. After you moved from there to where? A. To 40th Street.

Q. By the way, when you were living at the other place with the Larsens had you ever seen any other people in the building outside of the Larsens when you were living with the Larsens before you moved to Seton Avenue in the other building where you don't know the number of stories? A. Yes, I saw the people down below.

Q. How many people? A. I think it was Italian people. I don't know, but I think it was.

Q. How many? Just a man and a woman or both or what? A. I saw man and woman and I saw children.

Q. You saw children. Never talked to the children? A. Never did.

Q. Never talked to the man? A. Never did.

Q. Never talked to the woman? A. Never did.

Q. Lived there over five months. A. Yes.

Q. Don't know their name? A. No, I don't.

Q. All right. Then you moved from there to Seton Avenue; you spent two and a half months there, and where did you go then? A. I went down, I moved down to 40th Street.

Q. 40th Street? A. 40th Street, yes.

Q. 40th Street? A. Yes.

Q. While you lived with the Larsens up at Seton Avenue who did you work for, anybody? A. While I was living on Seton Avenue?

Q. Yes. A. For Mr. Christiansen.

Q. For Mr. Christiansen? A. Yes.

Q. For whom? A. It was for the company.

Q. Majestic? Majestic Apartments? A. No.

Q. Did you ever work in the Majestic Apartments? A. I don't think so.

Q. You don't think so? A. No.

Q. Do you know where they are? A. No.

Q. Did you ever work— A. Where are they?

Q. I don't know. I don't know, I will find out.

Mr. Wilentz: Where are they?

Mr. Hauck: 72nd Street.

A. 72nd?

Q. Yes. A. I was never working there.

Q. Never worked there? A. Not on 72nd. Yes, I was. On 72nd.

Q. You testified right in your original examination, didn't you? A. Yes, Central Park West at 72nd Street.

Q. 72nd Street and Central Park West? A. That's right.

Q. The Majestic Apartments, isn't that it? A. Is that what you call it?

Q. Yes. Mr. Hauptmann worked there, didn't he? A. I don't know.

Q. You don't know? Take a look at this payroll and see if you can read Majestic Apartments (exhibiting to the witness). A. Yes.

Q. Do you see it? A. Majestic Apartments.

Q. Yes. Now, take a look at that: The Reliance that you couldn't remember; Reliance Property Management: is that the name of the company, on top here? Reliance Property Management Company. A. I guess that is the one.

Q. 565 Fifth Avenue, New York, is the office. That is the one that you guess is that it? You say you guess that is the one, is correct? A. I thought they had their office in Hoboken.

Q. Well, it was a Reliance Company, wasn't it? A. I remember Reliance. The rest I don't remember.

Q. But you do remember now working at 72nd Street and Central Park West in the Majestic Apartments? A. Yes, I did.

Q. Now, let's see, young man. When was it you worked there? A. Was—

Q. What year? A. Was 1931.

Q. The end of 1931, you mean? A. Let me see now—

Q. Winter or Summer? A. It was in the—it was in the Winter.

Q. Winter? The Winter of 1931? A. Yeh.

Q. How long did you work for this company? A. No, I am mistaken there. It was in the Summer.

Q. How long did you work for the company? A. I was working for the company, I start in May 1931. Then I was working for the superintendent to Christmas, Christmas Eve the same year.

Q. Yes. How long did you work at the Majestic Apartments? A. I think it was about two or three days.

Q. Were you Mr. Hauptmann's helper there when he worked there? A. No, I was not.

Q. You weren't A. (Shakes head.)

Q. What did you do at the Majestic Apartments? A. I was carrying doors.

Q. For carpenters, weren't you? A. Yeh.

Q. In 1931? A. In 1931.

Q. Do you know anybody connected with that company, who was connected at that time besides Mr. Christiansen, your friend who went to Sweden and his brother? A. That is the only one—that is the only one I know that is connected with it. I know a few carpenters there, though.

Q. Do you know any of the carpenters who worked there at the time? A. Not at 72nd Street.

Q. That is what we are talking about, 72nd Street. A. No, I don't.

Q. Majestic Apartments? A. Yeh.

Q. You will remember that now, won't you? A. Yes.

Q. Do you know anybody that worked with you at the Majestic Apartments? A. No, I don't.

Q. You do not? No names? A. Not so far as I know.

Q. Not so far as you know. You have been in this country how long? A. Pretty nearly six years.

Q. Are you a citizen? A. I am not yet.

Q. So you saw a picture of Mr. Hauptmann with Mr. Reilly, did you? A. Yes, I saw him.

Q. And that is the thing that awakened you. When did you see that? A. I don't remember exactly when. Must be a few weeks ago.

Q. A few weeks ago? How many weeks ago? A. I can't remember.

Q. How many weeks ago— what do you mean you can't remember? A. I can't remember.

Q. You can't remember a few weeks ago? A. Not when I saw the pictures.

Q. Do you realize what you are doing here today? A. I know it.

Q. Well, then, what do you mean you can't remember a few weeks ago? A. Because I saw pictures almost every day.

Q. I asked you when you saw that picture of the defendant with Mr. Hauptmann (sic) which awakened your mind to this situation and you said a couple of weeks ago or a few weeks ago. Isn't that what you said? A. Yes.

Q. Well, how many weeks is a few weeks ago? A. You can figure at least seven.

Q. Sir? A. Seven.

Q. Seven weeks. Did you see the picture of Mr. Reilly with Mr. Hauptmann when Hauptmann was arrested? A. Ja.

Q. Ja, did you say? You mean Yes? A. Yes, that's right.

Q. Well, that was quite a few months ago. You are mistaken about the weeks, aren't you? A. When I saw the picture?

Q. No, I asked you whether you saw Mr. Reilly's picture with Mr. Hauptmann when Mr. Hauptmann was first arrested, you said Yes. A. When he was first arrested I saw when he was arrested.

Q. When he was arrested? A. That's right.

Q. How long ago was that? A. Well, I think I saw the pictures—if I say five or six or seven weeks—

Q. Have you got the picture that you saw? A. No, I haven't.

Q. Did you cut it out? A. No, I didn't.

Q. How old did you say you were? A. 27 years old.

Q. All right. Now let's get back for a minute to where you worked again. A. Sure.

Q. Majestic Apartments? A. Uh huh.

Q. The summer, I think you said, of 1931? A. Yes, that's right.

Q. Do you remember that? A. Yes.

Q. It wasn't 1932? If it was, just say so now. A. It was 1931.

Q. 1931? The summer? A. Yes.

Q. And you were then living with whom? A. I was living with Mr. Larsen.

Q. With Mr. Larsen? A. Right.

Q. You don't know where Larsen lives now? A. No, I don't.

Q. That's in the two-family house? A. Yes.

Q. On Seton Avenue? A. Yes. It was after I was living on 138th Street first.

Q. All right. But when you were working at the Majestic in the summer of 1931 you were living at Seton Avenue with Larsen in the two-family house. A. No, I was not.

Q. Well, all right. Tell us, then. A. I was working on 72 Street, then I was living at 138th Street.

Q. That was before that; that was between May and October of 1931 then. A. Yes.

Q. That's correct, isn't it? I don't want to make any mistake about this. A. When I was working on 72nd Street, I was living on 138th Street.

Q. That was between May and October, 1931, is that correct? A. That's right, that's right.

Q. You were then living at a hundred and what? A. 138th Street.

Q. 138th Street? A. Yes, that's right.

Q. At that time you were working at the Majectic Apartments? A. Yes, I was working there for—

Q. A few weeks? A. No, not a few weeks; a few days.

Q. A few days? A. That is right.

Q. And you were working there during the summer. A. Yes, that's right.

Q. What makes you remember the summer? A. Because the superintendent sent me from 62nd Street up to 72nd Street to carry some doors and I was working on 62nd Street before I went down superintendent's house.

Q. Did you work for any other company during the time that you lived with Larsens at 138th Street? A. No, I did not.

Q. So that then you moved up to Seton Avenue and where did you work then? A. I was working for the same company.

Q. Well, that's what I asked you. After you got through with your work at the Reliance— A. Yes.

Q. —after you moved with the Larsens from 138th Street to Seton Avenue, you were working with the Reliance again. A. Yes.

Q. Where? A. 62nd Street.

Q. 62nd Street? A. Yes.

Q. So you went from 62nd to 72nd and back to 62nd? A. Yes.

Q. Is that right? A. I went from 62nd to 72nd and then I guess I went down to 26th Street, if I am not mistaken, because he had a lot of buildings, there was many buildings, and we had to go around and carry doors, door frames, and carry those doors.

Q. Yes. All right. How long did you work for the Reliance then? A. I was laid off the Christmas Eve 1931.

Q. But you lived with the Larsens till January, 1932? A. I moved away from there in January, 1932.

Q. 1932. Did you ever work for the Reliance again? A. I did not.

Q. After December, 1931? A. No, I did not.

Q. Never did? A. No.

Q. Do you know Mr. Peskier? A. (No answer.)

Q. Do you want to think that over? That's all right. Take your time. A. No, I never did.

Q. Never did? A. I never worked for him.

Q. Do you know Mr. Peskier? A. No.

Q. Did you ever go to an agency for employment? A. No.

Q. You never did? A. I never did.

Q. To no agency? A. No. Yes, I did, once.

Q. What agency? A. It was the first year I was in New York I went down to 6th Avenue to — I don't remember the name of the agency, but I got a job down with Child's Restaurant—not with Child's—to a cafeteria.

Q. What is Larsen's first name? A. (No answer.)

Q. What are you thinking about, don't you know? A. I don't know his first name. I don't remember his first name.

Q. You don't know the name of the man with whom you lived all those months? A. Not his first name. I have to think of it.

Q. What was his wife's first name? A. I don't remember.

Q. How many months did you live with the Larsens altogether? A. I was living there from the beginning of May and the whole year after. From the first of May and the following months, the same year.

Q. From May to May? A. No, from May to January.

Q. From May 1931? A. That's right.

Q. To January, nineteen—. A. 1932.

Q. 1932? A. That's right.

Q. About eight months? A. Yes, about eight months.

Q. And you don't know his name, first name, you don't know his wife's first name. Did they have a telephone? A. Yes, I remember her name is Agnes.

Q. Did they have a telephone? A. No, they hadn't.

Q. What business was he in? A. He was painter.

Q. By whom was he employed at that time? A. I don't know.

Q. Was he working at the time? A. Yes.

Q. You don't know any of his employers? A. I beg pardon.

Q. Any of the people by whom he was employed? A. I don't know the people, no.

Q. How many children were there? None? A. Where I was living?

Q. Well, where do you think I am talking about? A. Well, I am mixed up.

Q. You are mixed up. We are talking about

Larsen. Larsen and his wife. Larsen, the painter. A. Yes.

Q. How many children were there? A. Two children.

Q. Boy or girl, or both or either? A. It was two girls.

Q. What is the address of the house in Dunellen where you lived? A. I don't know the number of the house, but there was Washington Avenue near the end.

Q. You occupied a house yourself in Dunellen or did you live with a family? A. I was there alone.

Q. Did you occupy a house yourself? A. Yah.

Q. A whole house? A. Yah.

Q. How many rooms? A. There was, there was three on the first floor and three on the second floor.

Q. Are you married? A. No, I am not.

Q. Was it furnished? A. No.

Q. You lived in a house in Dunellen that was not furnished and you occupied the whole house? A. Yes, I did.

Q. An empty house? A. Yah.

Q. A new house? A. Yah. It was newly built.

Q. Newly built? A. Yeh.

Q. Did you live there? A. I did.

Q. You lived there? A. Yes.

Q. How long did you live there? A. I—he sent me out there—

Q. How long did you live there? A. He sent me out there in the 1st of February and then I was living there all the time until Mr. Christiansen moved out himself.

Q. How long did you live there? A. It was from January—from February to I think he moved out the 15th of April.

Q. February to when? A. What?

Q. February till April, what year? A. 1932.
Q. February till April 1932? A. Yes.
Q. And you moved out of there? A. Yes.
Q. Did you sleep in Dunellen? A. I did.
Q. Every night? A. Every night.
Q. Did you have a cot there? A. Not every night. I went into New York during the time.
Q. Twice? A. Twice.
Q. From February to April ? A. I went into New York the first time, the first of March and the second time I went in was when he came out and called for me to come in and help them move the furniture from New York.
Q. Did you have a bed in that building? A. No.
Q. From February to April you slept there? A. On the floor.
Q. No bed? A. No bed.
Q. No mattress? A. Yeh.
Q. Who supplied the mattress? A. Mr. Christiansen.
Q. Which one, the one that is in Sweden now or the other one? A. The owner of the house.
Q. The owner of the house? A. Yes.
Q. What is his first name? A. Oscar.
Q. Oscar? A. That is right.
Q. He lives in Dunellen, doesn't he? A. I guess so.
Q. You don't know? A. I don't know.
Q. You don't know? A. I don't know; I guess so.
Q. Is he related to the Christiansen that went to Sweden? A. That is his brother.
Q. That is his brother, the same Christiansen? A. Yeh.
Q. You worked for him during those months, didn't you? A. Yeh.
Q. And you were paid by him, I take it? A. Yes, I was.

Q. How much? A. While I was living out there I was paid five dollar a week.

Q. Five dollars a week? Where did you eat? A. I was cooking myself.

Q. Buy your own food? A. I did.

Q. You had some friends in New York, didn't you? A. Yes, I had.

Q. Did you have any friends in The Bronx? A. Yes, I had that time.

Q. Who were they? A. Mr. Larsen and Mrs. Larsen.

Q. Well, they weren't friends, you didn't even know Larsen's name, did you? A. Yes, they were my friends while I was living there with them.

Q. Well, you didn't go up to their house when you went to New York, did you? A. No, I didn't.

Q. Well, you had friends in The Bronx, the Larsens? A. Not—no, I didn't have any.

Q. Did you ever visit the Larsens after you moved away from them? A. No, I didn't.

Q. No. So that friendship was all overboard when you left there, wasn't it? A. I guess it was.

Q. Did you have friends in downtown, New York? A. Yes, I had.

Q. Who? A. One Swedish fellow, his name was Nicholson.

Q. What was his first name? A. Gunnard.

Q. What? A. Gunnard.

Q. Where does he live now? A. In Sweden.

Q. What? A. In Sweden.

Q. He is in Sweden? A. Yeh.

Q. Anybody else? A. And another Norwegian fellow.

Q. Yes. A. His name was Tellovson.

Q. You gave us two names, didn't you, one fellow that is in Sweden and what's the other fellow's name, Nicholson? A. The fellow is in Sweden, his name is Nicholson.

Q. What is the name of the other man? A. Tellovson.

Q. Where is he? A. Norway.

Q. He is in Norway. Anybody down in the East Side that you knew then that is now in the United States of America? A. Yes.

Q. Who? A. Nord.

Q. What is his first name? A. His first name is John, I guess.

Q. Where does he live now? A. On 211 East 40th Street.

Q. 211 East 40th Street. He lives there now? A. That's right.

Q. He is a friend of yours? A. He is a friend of mine.

Q. In what business is he in? A. He is a floor scraper.

Q. What? A. Floor scraper.

Q. And did you know him at that time? A. Yes, I did.

Q. All right. Now you were getting five dollars a week. Out of the five dollars a week you had to pay for your own meals, cook your own meals and pay for your own clothing, of course? A. That's right.

Q. And you were there from February to April? A. Yes.

Q. It was cold there? A. It was not so cold, I had fire.

Q. You had a fire? A. I had a fire in the house.

Q. Steamheat? A. Steamheat, yes.

Q. Did you put on the steamheat? A. Yes, I did.

Q. And then you went to New York a couple of times during that period? A. I went there twice.

Q. Twice. You went to visit some people? A.

That's right; the first time I went to New York was on my birthday.

Q. Yes, March the 1st? A. March the 1st.

Q. 1932? A. 1932.

Q. Yes. A. That is right.

Q. And you went there to visit some friends, didn't you? A. No, I did not.

Q. What did you go there for? A. Because when I came to the car and he took me to New York, I didn't have intention to visit anyone.

Q. Oh, you never had intended to go to New York at all? A. No.

Q. Somebody drove along and said, "What is the way to New York?" A. That is right.

Q. And as a result of that you and that somebody got into a car? A. That is right.

Q. You don't know who that somebody is? A. No.

Q. You don't know whether he is in Norway or Sweden? A. I don't think so.

Q. You don't think so? A. Because he was an American.

Q. And so you drove into New York. How did you go into New York, by what route? A. We went through Elizabeth—

Q. Yes. A. —and—first we went through Plainfield.

Q. Yes. A. And then we went through Elizabeth.

Q. Yes. A. And then we went through—

Q. Newark? A. No. Outside of Newark, I guess.

Q. The super-highway? A. It was building a big bridge there. We went beside that bridge.

Q. Yes. A. Then we came into New York.

Q. Into New York? A. Through the tunnel.

Q. Did you pay the fare through the tunnel? A. He did.

Q. He did? A. (Nods head.)

Q. And you got into New York. A. Yes.

Q. Then you got out. A. Yes, that is right.

Q. Then you went to visit friends. A Yes.

Q. Who did you go to visit? A. First I went to was to those fellows on 41st Street.

Q. Who were those fellows on 41st Street? A. Mr. Nicholson and Mr. Kalifsen.

Q. Those two gentlemen are away aren't they, over in Europe? A. They are.

Q. You didn't find them in, did you? A. No, I didn't.

Q. Then you left there. What time did you leave Dunellen? A. I left Dunellen, I should say, about a quarter to six.

Q. Quarter to six? A. Yes.

Q. Then you left there and went where? A. I wasn't—I intended to go to Plainfield.

Q. I don't care where you intended to go. I want to know where you went. A. To New York.

Q. Yes. After you got to the home of these men who are now in Sweden and Denmark you went where? A. Up to Mr. Fredericksen's bakery.

Q. Right to Fredericksen's bakery? A. Yah.

Q. About what time was that? A. When I got there was I should say half past eight.

Q. Did you go up there just to eat? A. No.

Q. What did you go up there for? A. Because there was a girl living two doors from Mr. Fredericksen's bakery there that I was very fond of.

Q. What was her name? A. Her name was Esther.

Q. Esther what? You don't know that, do you? A. I know it, but I don't want to tell you.

Q. Oh, you don't? Well, please do us the kindness. A. All right, I tell it then. She is the niece of the superintendent I was working for.

Q. What is her name? A. Her name was Esther.

Q. Esther what? A. I don't know her second name, the last name.

Q. What is her last name? A. Her last name I don't know.

Q. You said a minute ago you didn't want to tell it. Now you please tell us. A. Yes.

Q. Her name. A. I don't know her last name.

Q. You didn't mean then before when you said you didn't want to tell it, did you? A. I didn't want to tell it that it was the niece of the superintendent.

Q. Oh, I am not interested whether she is the niece of the superintendent. I wanted to know her name. You didn't know her name, is that it? You didn't know her name then and you don't know it now. A. I didn't know it then, I don't know it now.

Q. You did or didn't? A. I didn't know it then.

Q. You didn't know it then and you don't know it now. You were very fond of this girl, weren't you? A. I was. I saw her twice.

Mr. Wilentz: Well, if your Honor please, would I be imposing upon your Honor if I ask for a few minutes' recess?

The Court: Five minutes' recess.

Mr. Reilly: Have you finished with the witness?

Mr. Wilentz: No. I am not going to finish for a while.

(At 3:35 p. m. a short recess was taken.)

———

(At 3:44 p. m., after a short recess the jury was polled and all jurors answered present.)

ELVERT CARLSTROM resumed the witness stand.

Cross Examination (continued) By Mr. Wilentz:

Q. Now, on this night that you took this trip to New York in this automobile, what kind of an automobile was it? A. It was a big car.

Q. How many people in the automobile? A. The driver alone.

Q. That is in New York. It was in Dunellen—were you in Dunellen at the time or were you in Plainfield? A. I was, I should say, a little outside of Dunellen, between Dunellen and Plainfield.

Q. On the main highway? A. On the main highway, Main Street, I think they call it.

Q. The main street of Dunellen? A. Yah.

Q. Is that what you mean? A. Yah.

Q. Do you know anything about the town of Dunellen? A. Yes, I do.

Q. You do, don't you? A. Sure.

Q. It is larger than Flemington, isn't it, much larger isn't it? A. Well, I haven't been around much here, I don't know.

Q. I see. It has two or three banks on the main street, hasn't it? A. I don't think there is only one bank.

Q. Well, don't you know there is a First National Bank there and a Peoples National Bank or Peoples Trust Company and a Second National Bank? A. I never saw it.

Q. You never saw it. Lot of stores? A. Yes, lot of stores on the main street.

Q. A very important railroad station there, isn't it A. I don't think it is so important.

Q. Four or five track railway there? A. There is just one this way and one the other way.

Q. I am talking about the railroad. A. Yes, railroad station.

Q. Yes. A. Yes.

Q. Only one railroad track? A. There is one for the train goes to New York and one for the train that goes from New York.

Q. Just two tracks? A. As far as I know, there may be—

Q. I am talking about what you know. A. There may be a few tracks beside there, but there is only two trains that pass by there.

Q. Two rails for one train do you know that? A. Yeh.

Q. How many rails would you say are there in front of that railroad station? A. Well, I should say four, four or five.

Q. Well, there are four for two trains to pass: is that what you mean? A. Because they—then they goes together then to the main rail, whatever you call it.

Q. What side of the track is the station? A. When you walk from Long Island—

Q. As you come from New York. A. As you come from New York and walk down there it is on this side.

Q. That is the left? A. That is the left side, yeh.

Q. As you walk from New York? A. Yeh.

Q. Now, is the station near the main street or is it away from the main street? A. It is not so far from.

Q. Well— A. I should say—

Q. Is it on the main street? Does it face the main street or doesn't it? Or is it a block away or two blocks away or a mile away? A. No, it isn't even one block.

Q. It isn't even one block? A. No.

Q. Did you walk in from New York or did you ride in? Did you walk in or ride in? A. When.

Q. From New York to Dunellen? A. When?

Q. Whenever you came there, the first time. A. The first time I came there by car.

Q. Automobile? A. Automobile, yes.

Q. Did you ever come by train? A. Yes.

Q. Did you ever walk in from New York to Dunellen? A. I never did.

Q. As you came in by train from New York to Dunellen, you got off on the left side to get off at the station, didn't you? A. (No answer.)

Q. Is there a station on both sides, station house? A. There is a station house on both sides.

Q. A station house on both sides? A. Yes.

Q. A building? A. Yes, but the biggest one is on that side.

Q. The left? A. That side of the railroad towards the street.

Q. Towards the street? A. Between the street and the track is the biggest house.

Q. And your notion is that it is on the left side as you are coming in from New York? A. Yes.

Q. So you were up in Fredericksen's that night? A. Yes, I was.

Q. What is Mr. Fredericksen's first name? A. I don't know.

Q. When had you been there before that night? A. I never had been there before—not that night before.

Q. Before that night when had you been there?

A. The first time when I went there, when I moved up to Seton Avenue.

Q. How far is Seton Avenue from there? A. Well, I should say about five minutes' walk.

Q. Five minutes' walk? A. I should say so.

Q. You used to eat there every night? A. Yah.

Q. For how many months? A. From the middle of October to the 1st of, from the middle of October till Christmas.

Q. From the middle of October till Christmas? A. Yes.

Q. Nineteen hundred and what? A. 1931.

Q. 1931? A. That is right.

Q. You were then living where? A. After?

Q. No. At that time A. Seton Avenue.

Q. Seton Avenue. And you were then working where? A. With Mr. Christiansen.

Q. With Mr. Christiansen. Did you have breakfast there? A. Yah.

Q. Did you have supper there? A. Yah.

Q. Did you have lunch there? A. Not lunch.

Q. Supper? A. Supper; in the morning and in the evening.

Q. Did you work every day in the week— No I withdraw that. Did you eat there every day in the week during those times? A. Not on Saturday.

Q. Well, except for Saturdays, every day in the week. A. Except for Saturdays and some Sundays.

Q. Tell me what sort of a man was it that drove you from Dunellen. A. It was a young fellow.

Q. Young fellow, about how old? A. I should say about 23 or 24.

Q. Was it Bruno Hauptmann? A. It was not.

Q. It was not? A. No.

Q. A big car, you say? A. Yes.

Q. What kind of a big car? A. I don't know the name of it.

Q. Was it a green Dodge? A. It was a dark car,

Q. A dark color; was it a Dodge? A. I don't know the name of the car.

Q. Was it a sedan? A. I don't understand what you—

Q. Five passenger? A. We could easily get in—

Q. Five people? A. Easy five people.

Q. Well, you know the difference between a five passenger car and a two passenger car, don't you? A. You mean two seats?

Q. Were there two seats? A. Sure, there was two seats.

Q. Was it a seven passenger car or a five passenger car,—or don't you know the difference? A. (No answer.)

Q. You don't know the difference? A. No.

Q. Seton Avenue, what was the nearest intersection? A. Intersection? What you mean by intersection?

Q. Well, the nearest corner to the house that you lived in. A. The nearest corner was 233rd Street.

Q. Two Hundred and what? A. 233rd Street.

Q. Would you be able to tell if you looked at a map? A. I guess I could.

Q. You think you would. We will bring a map here tomorrow and you will be able to pick it out, won't you? A. Sure.

Q. You wouldn't have any objection to coming back here tomorrow, would you? A. I guess not.

Q. You guess not. Well, at any rate you ate at the Fredericksens? A. Yes.

Q. Did you know Mr. Fredericksen? A. Yes, I know him, by the sight.

Q. Do you know Mrs. Fredericksen? A. I know her by the sight, too.

Q. Do you know Mrs. Hauptmann? A. By the sight.

Q. When was the first time you saw Mrs. Hauptmann? A. Was—I don't remember.

Q. The 1st of March? A. Can't exactly say.

Q. Was it the 1st of March? A. Was before that.

Q. You saw her there before that? A. Sure.

Q. How long before that? A. It all depends on what year you mean.

Q. I don't care what year. A. I saw her the first time when I came in there and had my supper. It was some time during the—in the middle of October, 1931, it was the first time I saw her in there.

Q. The middle of October, 1931? A. Yes.

Q. And you lived there at Seton Avenue from when to when? May to October? A. From the middle of October to the Christmas Eve.

Q. Did you see her there the first time you went in, the first day? A. No, I did not.

Q. Did you see her there the second day? A. I think I did.

Q. You wouldn't say so, would you? A. I wouldn't say so.

Q. You are not sure even about the first week, are you? A. Because I always tried to—

Q. Never mind about what you always did. I want to know what you did with the Fredericksens and Mrs. Hauptmann. A. All right, all right.

Q. So that you knew Mrs. Hauptmann didn't you? A. By the sight.

Q. From October. A. Yes.

Q. From October, 1931, you knew Mrs. Hauptmann, didn't you? A. I know she was a waitress in there.

Q. You knew Mrs. Hauptmann from October, 1931, didn't you? A. By the sight.

Q. Yes. Well, you talked to her; you ordered food, didn't you? A. Yes.

Q. Did you know her name was Anna? A. No, I didn't

Q. You saw her serving food. A. Yes.

Q. She was the only waitress there. A. She was the only waitress.

Q. And you saw her there a couple of times a day. A. Yes.

Q. Every day, October. A. Yes.

Q. From the time you first started. A. Not in the days; in the evenings.

Q. Morning and night? A. Not in the morning.

Q. Well, you used to go in there in the morning. A. So far as I know.

Q. Didn't you go in there in the morning for breakfast? A. Yes.

Q. You didn't see her there in the morning? A. Mrs. Fredericksen?

Q. Did you see her there in the morning? A. No, that is what I can't remember.

Q. You never saw here there in the morning? A. No, I can't remember.

Q. Well, we are only talking about what you can remember? A. All right.

Q. You don't remember ever seeing her there in the morning? A. I don't think I ever saw her there in the morning.

Q. Well, if you had seen her, you had been going there for months, you would remember it, wouldn't you? A. I think I should, yes.

Q. Sure you should. But you saw her there at night? A. In the evenings I saw her.

Q. What time would you get there in the evening to eat? A. Well, I left the job about—say it is at five o'clock, and then I had, and washed myself, it would take about, it was half past six, and oh, I usually had my supper—

Q. Six days a week you walked into that place every day but Saturday? A. Usually.

Q. Yes, usually. Six nights a week you saw Mrs. Hauptmann in there, the waitress? A. I can't say I saw her every night, I don't think I did, because Mrs. Fredericksen was around and did the waiting sometimes too.

Q. What? A. Mrs. Fredericksen was around there too.

Q. Yes, how often? A. I think she was there almost every night so far as I remember.

Q. Mrs. Fredericksen was? A. Mrs. Fredericksen.

Q. And every night Mrs. Fredericksen was there, Mrs. Hauptmann was there, isn't that right? A. Yes, they were both there.

Q. Both there? A. I saw them both there.

Q. So you saw Mrs. Hauptmann there every night? A. Not every night.

Q. Not every night? A. No, I didn't.

Q. How many nights would you say a week: four or five nights a week anyway?

Mr. Reilly: No, that isn't his answer.

Mr. Wilentz: Well, that is my suggestion.

Mr. Reilly: No, never mind your suggestions.

Mr. Wilentz: That is a question.

Mr. Reilly: Let's have an answer from the witness.

By Mr. Wilentz:

Q. Is that right, five or six nights a week?

Mr. Reilly: That is a question, that is different.

The Court: You may ask him if he was there five or six nights a week.

Q. Were you there five or six nights a week? A. Sometimes I was.

Q. Well you told us before, 15 or 20 minutes ago or an hour ago, you were there every night except Saturday. Now that's your testimony; is it correct? A. I said except Saturday and some Sundays.

Q. All right, except Saturdays and some Sundays you were there? A. Yes.

Q. At night? A. At night.

Q. And in the morning? A. That's right.

Q. In the morning you never saw Mrs. Hauptmann? A. Not that I can remember.

Q. Well, if she was there you would see her, wouldn't you? A. I guess I should see her.

Q. And if you saw her you would remember her? A. I guess so.

Q. So she wasn't there you mean? A. I guess so.

Q. But at night, about five nights a week, we will say—let's make it four nights a week. Is that a fair average? A. That suits me.

Q. Well, that is all there is to it, if it suits you as being the truth. That is what we want. Is that the truth that about four nights a week you saw Mrs. Hauptmann in that place? A. One week, maybe four weeks and another week maybe five weeks.

Q. You mean one week five nights and some weeks five nights? A. That's right.

Q. Now I have got it all balled up. Some weeks four nights, and some weeks five nights, is that right? A. That is right.

Q. This is in October, 1931, November, 1931, December, 1931. A. That is correct.

Q. 1931. A. 1931.

Q. And when you ordered your food you would order it from Mrs. Hauptmann? A. Not always.

Q. Sometimes from Mrs. Fredericksen? A. Usually from Mrs. Fredericksen.

Q. You know Mrs. Fredericksen, don't you? A. Yes, I do.

Q. No question about that? A. No question.

Q. Did you talk to her many times? A. Talked to her many times.

Q. Talked to Mrs. Hauptmann many times too, I suppose. A. Yeah.

Q. Many times? A. Not so many times. I spoke more to Mrs. Fredericksen.

Q. Well, enough times so that you knew her well? A. Yeah.

Q. If you saw Mrs. Hauptmann on the street any place you would know it was Mrs. Hauptmann, isn't that right? A. That is right.

Q. And that is because you had seen her there every night. A. Yes.

Q. Now you saw her pictures in the paper, didn't you? A. Mrs. Hauptmann's?

Q. September, 1934? October, 1934, November, 1934, December, 1934—didn't you see her pictures, hundreds of them? A. Not what I can recall.

Q. Didn't you see her name in the papers? A. Yes, I saw her name once.

Q. Will you say here now that you have been reading the New York Journal during the entire year of 1934, pretty near every day, been looking at the pictures— A. Yes.

Q. That you have been reading the Swedish

paper pretty nearly every day, the New York or Brooklyn Swedish paper, that you never saw a picture of Anna Hauptmann in those papers, September, October, November and December, 1934? A. I think I saw one picture the last part of September, if I am not mistaken.

Q. 1934? A. 1934.

Q. You think you saw a picture of Mrs. Hauptmann? A. I think so.

Q. And the picture, of course, when you saw the picture of this woman who you saw as a waitress in a New York newspaper, you knew something was happening, didn't you? A. I couldn't tell if something was going to happen.

Q. Well, you saw the picture? A. I saw the picture.

Q. And you read the paper, didn't you? What did it say under the picture? A. I don't remember what it said.

Q. Did it say Anna Hauptmann? A. I think it said so.

Q. You think it said so? A. I think so.

Q. You think it said so. All right; that's your best recollection that it says Anna Hauptmann and after it says Anna Hauptmann it says "Wife of Bruno Richard Hauptmann," didn't it? A. I don't think it said so.

Q. What did it say about her? A. The only way I saw was Mrs. Anna Hauptmann, I guess, that's the only way I can remember it.

Q. Well, what was the story about it with the picture? A. I can't remember.

Q. Will you try to remember? A. Yes, I will do my best.

Q. It was a big picture? A. No, it was a small one.

Q. Mrs. Anna Hauptmann, the story was all about the Lindbergh case, wasn't it? A. Yes.

Q. Yes. The story was about the Lindbergh case and it was a small picture and it was in the New York Journal: is that right? A. I think I saw a picture, I don't want to say that I saw a picture, but I think I saw a small picture.

Q. Of Mrs. Hauptmann? A. Of Mrs. Hauptmann in the last part of September.

Q. 1934? A. 1934.

Q. About the Lindbergh case? A. About the Lindbergh case, yes.

Q. What did it say about Mrs. Anna Hauptmann and the Lindbergh case? A. I don't remember.

Q. Well, it said she was the wife of the man that was accused of the crime, didn't it? A. Maybe it did, I don't remember.

Q. You remember it was about the Lindbergh case? A. Yes.

Q. You read the story? A. I did.

Q. So you knew at that time what the story did say, didn't you? A. (No answer.)

Q. You say you read the story? A. Yes, I read the story about the Lindbergh case.

Q. You read the story that day when you saw the picture of Mrs. Hauptmann? A. Not that day.

Q. When did you read it? A. I read the Lindbergh story in 1932, I guess.

Q. I am talking about the day that you saw the picture of Mrs. Anna Hauptmann in one of the newspapers that you were reading in September, 1934. A. That's right.

Q. What was the story in connection with that picture? A. I can't remember.

Q. Was it about the Lindbergh case? You just said it was, is that the fact or isn't it? A. Yes, I—yes, it was.

Q. It was about the Lindbergh case? A. Yes, it was.

Q. All right, now. Just take your time and let's talk it over and think it over. Here was a picture of Anna Hauptmann in a New York newspaper about the Lindbergh case, is that right? A. That is right.

Q. You had seen this woman in a restaurant—you are shaking your head—please say Yes. A. Yes.

Q. You knew she was a waitress? A. Yes.

Q. You knew she had been a waitress? A. Yes.

Q. And having seen her picture in the paper, you started to read the story and you found it was about the Lindbergh case? A. Yes.

Q. It was interesting, wasn't it? A. Well, it was very interesting.

Q. Yes, the story was very interesting. A. Yes.

Q. You are shaking your head again, please say Yes. A. Sure.

Q. What was the story that was so interesting that her husband had been arrested and charged with the crime? A. No, the most interesting was about the baby.

Q. Yes. What do you mean by that? A. About the kidnaping, that is what I said was the most interesting.

Q. Yes, but I am talking about the story in September, in September, 1934, when you saw Mrs. Hauptmann's picture. A. Yes.

Q. And you read the story about the Lindbergh kidnaping in September, 1934. A. Yes.

Q. That was—was that interesting that story about Mrs. Hauptmann? A. I don't think that that was so very interesting.

Q. Well, what was the story that you don't think was interesting, about Mrs. Hauptmann? A. I don't even remember what it said there. If I could only remember, then I could tell you what was interesting.

Q. Well, was it about the fact that Mrs. Hauptmann was the wife of a man who had been arrested in the Bronx, and in whose possession thousands of dollars of Lindbergh ransom money were found? Was it about that? A. No, it was—it said underneath there that Mrs. Hauptmann had worked in Mr. Fredericksen's restaurant, just what I got hold of.

Q. Yes. And that was about the fact that she was the wife of Mr. Hauptmann, isn't that it? A. Maybe it said so. I don't know.

Q. Well, if it was in the story you would have seen it, wouldn't you? You read the story. A. Well, I want to tell you that when I read, I read just maybe half of it when I read English, and half I don't understand.

Q. Weren't you curious when you saw the picture of the waitress in the place that you visited, weren't you curious about what had happened to her, that suddenly put her into such prominence or notoriety as to have her picture in a New York newspaper? A. (No answer.)

Q. Weren't you concerned, weren't you anxious as to what happened to this woman whom you knew, this poor hard working woman whom you saw slaving in that restaurant? Weren't you curious to find out what had happened to her? A. No, I wasn't.

Q. That occasioned her picture in the New York paper? A. I was not.

Q. Certainly not. Because you read in the papers, didn't you, that Mrs. Hauptmann's husband had been arrested in connection with the Lindbergh case, didn't you? A. Maybe it said there so, but I can't remember.

Q. Didn't you see the screaming headlines: "Hauptmann, Hauptmann, Hauptmann," day after day? A. I must have seen it.

Q. Must have seen it. Didn't you see her picture every day? A. I guess. I did.

Q. You guess you did. Day after day, didn't you? A. Day after day, yes.

Q. Just a few minutes ago you said you saw it only once. What is this, a guessing contest? A. I saw it in many papers.

Q. You saw it in many papers, you say? A. Yes, sir.

Q. Mrs. Anna Hauptmann? A. Not only her picture. I saw other people's pictures.

Q. Did you see pictures of Mr. Hauptmann? A. Mr. Hauptmann, yes.

Q. Yes. And you saw pictures of Mrs. Hauptmann, where it said she was the wife of the man who was arrested in the Lindbergh case, isn't that right? A. (No answer.)

Q. Did you see pictures—withdraw that.

Q. Did you see it stated in the papers that Mrs. Hauptmann was the wife of the man who was arrested in connection with the Lindbergh case? A. Yes, I must have read it.

Q. Yes, you must have read it? A. Yes, I read about it, sure.

Q. And did you read that—withdraw that.

Q. Did you read and did you find out in September, 1934, from those papers which you saw, from the pictures that you saw, that the question of where Mr. Hauptmann was on the 1st day of March, on the night of March the 1st, 1932, was an important one? A. No, I don't know; I don't think so.

Q. Didn't you read that the entire controversy about Hauptmann in the Bronx was where Hauptmann was on the first day of March, 1932? A. Maybe I did read it, maybe not.

Q. And you never told a soul in September,

1934, that you saw Hauptmann, did you, in September, 1934. A. Yes, I did.

Q. You did. All right. Now, tell us, who you told it to in September, 1934. A. I told—I don't know the name but where I was living on Long Island.

Q. Where were you living on Long Island? A. Cedarhurst.

Q. Who is the family you were living with? A. Mrs. Strauss.

Q. Who did you tell it to? A. I told it down in the kitchen.

Q. To who? A. Mrs. Strauss was there and her brother-in-law and another fellow, his name is Mr. Hartman.

Q. And what did you tell them? A. I remember now that I said that I saw in the newspaper that the waitress' husband was arrested and then told them there that I remembered I saw him in the restaurant on March 1st.

Q. Now, there is no question about that, is there? A. What?

Q. You think it over. There is no question about that being true? A. That I told them?

Q. What you are saying now, that you told them in September, 1934—. A. That is true.

Q. —that is the waitress's husband? A. Yes.

Q. And you saw his picture in the papers then? A. I don't think I saw his picture at that time.

Q. Why, you told us before you saw it in September, didn't you? A. Not his picture—yes, I saw—

Q. What? A. I saw his picture in September, I guess I did.

Q. Didn't you testify a little while ago when Mr. Reilly was questioning you that the first time you ever recognized the face of the man was a few weeks ago, or whenever it was that you saw

a picture of Mr. Reilly and this man? A. I didn't recognize him by the picture, when I told the people out there—

Q. Did you know it was Mr. Hauptmann's? A. It says—

Q. Mrs. Hauptmann's husband? A. It says in the paper it was the waitress's husband.

Q. Yes, Mrs. Hauptmann's husband? A. Yes.

Q. You never went to the police? A. I never did.

Q. You never went to her lawyer at the time? A. No.

Q. You knew there was a trial going on? A. Yah.

Q. You knew the trial was on the charge of the State of New Jersey that he come to New Jersey to answer the charge of murder? A. Yah, I know it.

Q. You never went near the police or the lawyer? A. No, I didn't.

Q. And that's because you didn't recognize him: isn't that right? A. Because I would only get mixed up in it if I tell the truth.

Q. If you tell us the truth? A. I would only get mixed up in it.

Q. Then you didn't tell us the truth before when you talked to Mr. Reilly: is that what you mean? When you told Mr. Reilly you didn't recognize this picture before, until a few weeks ago, when you saw his pictures with Mr. Reilly, and then you recognized him as being the man, that wasn't the truth then, was it? A. It was.

Q. The truth is that you didn't want to get mixed up in it in September, 1934? A. The truth is I would only get mixed up in this.

Q. That is the truth. That is, the truth is that in September, 1934, you didn't want to get mixed up in this? A. Yes.

Q. And it is not the truth—no, I will withdraw that.

Q. The truth is that in September, 1934, you saw the picture of Mr. Hauptmann and the picture of Mrs. Hauptmann, you recognized them at the time, you recognized him as being the man in the restaurant, isn't that right? A. That's right.

Q. And that when you testified here in answer to Mr. Reilly's question that the first time you recognized him was a few weeks ago when you saw his picture with Mr. Reilly, when you testified to that that was not the truth? A. It was the truth because it was the first time I recognized Hauptmann—not recognized him, by the picture, but when I saw the picture out on Long Island it was written there. That's the way I identify him there.

Q. In September, 1934, when you saw the picture of Bruno Richard Hauptmann in the paper as the husband of Anna Hauptmann, did you recognize him then in September, 1934, as being the man in the restaurant, Fredericksen's restaurant, on March the 1st, 1932?

Mr. Reilly: I object to it upon the ground that this witness has three times stated that he recognized him from the description of the waitress's husband in September, 1934, the fact that he had seen a man in the restaurant, not from any picture.

Mr. Wilentz: No, I object to that.

Mr. Reilly: He said three times from the description in the press, the paper, not pictures.

Mr. Wilentz: I know Mr. Reilly doesn't intend it, but I think his objection is suggestive of an answer.

Mr. Reilly: No, I think not. You asked him three times, and I have listened carefully. The present inquiry is suggestive of a trap,—that he saw his picture, when he says three times—

Mr. Wilentz: I move that that be stricken out, if your Honor please. I didn't bring this witness up here and, if he is being trapped, if your Honor please, it is because of his own conduct, not mine; and I object to that characterization, it is not warranted.

Mr. Reilly: We have nothing to apologize for, if the Court please.

Mr. Wilentz: I disagree with counsel that he has got nothing to apologize for.

Mr. Reilly: For this witness, I mean.

The Court: The witness' testimony has been of such a wavering nature that it does seem as if the Attorney General ought to be permitted a reasonable latitude in testing the accuracy of such testimony as he has given.

Mr. Reilly: I agree that that is quite correct. I agree with that.

The Court: Yes, it must be so.

Mr. Reilly: But the last three questions and answers I paid particular attention to and if there is any doubt about it we could have them read. He said that from the description that he read in September but the Attorney General is trying to pin him down to the fact that he saw a picture and that that date relates to the same testimony that he gave before and that he again repeated a minute ago, the first time he saw a picture was some weeks ago.

The Court: As I understand it, what the Attorney General is now trying to ascertain is whether or not he saw a picture of Mr. Hauptmann and Mrs. Hauptmann in the paper and recognized them as the people that he knew at the restaurant.

Mr. Reilly: Well, if he would ask if he recognized them as the pictures he saw in September, 1934, we would have no objection.

Mr. Wilentz: I have been doing that for a half hour.

The Court: It seems to me—I may be mistaken, but it seems to me that that is what the Attorney General is driving at and if we can get a definite answer to that question Yes or No I think the Attorney General would be quite satisfied.

You may proceed.

Mr. Wilentz: That is right.

By Mr. Wilentz:

Q. You did state on several occasions, did you not, that in September, 1934, you saw a picture of Mr. Hauptmann in the paper and that you recognized that picture as being the man you saw in the Fredericksen restaurant on the night of March the 1st, 1932, but you didn't say anything special about it because you didn't want to get mixed up in the case? A. That is right.

Q. Is that correct? A. That is correct.

Q. Now, so there will be no mistake about it in either of our minds, I am going to ask it again.

Mr. Reilly: Break it into three parts.

Mr. Wilentz: If you don't mind, I will do the examining of this witness.

Q. You have testified then as I understand it that in September, 1934, you saw a picture of the defendant Hauptmann in one of the newspapers and that when you saw the picture you recognized him as being the man you saw in the Fredericksen restaurant on the night of March the 1st, 1932, but that you did not reveal it to the authorities or others because you did not want to get mixed up in the case, is that correct? A. Can you repeat that? I don't understand half of it.

Q. Sir? A. I don't understand half the question.

Q. All right, sir. Well, I will cut it up in parts then. Did you see Hauptmann's picture—I will withdraw that. You testified that you saw Hauptmann's picture in the paper in September, 1934, is that correct? A. That is correct.

Q. You testified that when you saw his picture you recognized him as being the man—will you

please look at me when you are answering the question? A. Sure.

Q. You testified that when you saw his picture in September, 1934, you recognized it, you recognized the fact that that is the man you saw in Fredericksen's? A. Yes.

Q. On March 1st, 1932? A. Yah.

Q. That you knew in September, 1934? A. Not in September.

Q. When then? A. No, it was not in 1934, it was in 1935, it was this year, I recognized the first time in the newspaper.

Q. When? A. Just a few weeks ago, it is not so very long ago.

Q. A few weeks ago? A. Yes.

Q. Is the first time you ever recognized Mr. Hauptmann's picture? A. By the picture, yah.

Q. By the picture. Well, you have never seen him any other way since March 1, 1932, except by pictures? A. What?

Q. Isn't that right? Since March 1, 1932, until you walked into this court room, you had never seen him, had you? A. No, I haven't.

Q. Sir? A. I hadn't.

Q. You hadn't? A. No.

Q. All you saw was pictures of him? A. Yes.

Q. Is that right? A. That is right.

Q. When was the first time you saw a picture of him? A. The first time I saw a picture, it must be the last part of last year.

Q. Last part of last year? A. I think so.

Q. And when you saw his picture the last part of last year, what did you see in connection with the picture, was there a story? A. I didn't pay much attention to the picture.

Q. Oh, why don't you tell us? Was there a story there? A. I guess there was.

Q. Did you read it? A. Maybe I did.

Q. Was it about the Lindbergh case? A. It must have been if there was a story.

Q. Was there a story? A. If there was it must have been.

Q. Did you see it more than once? A. The story?

Q. The picture. A. The picture?

Q. You saw it every night, didn't you? A. Not every night, because I didn't buy the paper every night.

Q. Well, whenever you bought it. A. Yah.

Q. Whenever you bought the paper, several nights a week you saw it, didn't you? A. That is right.

Q. You saw the same picture? A. Well, not the same picture.

Q. Well, the picture of Hauptmann? A. Yes.

Q. And you recognized it as Hauptmann's picture—you are shaking your head. Answer yes, is it yes? A. The first time I recognized his picture was about three or four or five weeks ago.

Q. You said the first time you recognized his picture, the first time you saw his picture was in the last part of 1934,—that is only about two minutes ago?

Mr. Reilly: Now, I object to that, if the Court please. That is not his testimony. That is what we are driving at.

Mr. Wilentz: That is my recollection of it.

Mr. Reilly: Well, your recollection is not—

Mr. Wilentz: Well, I am entitled to my

recollection as the distinguished gentleman for the defense—

The Court: There seems to be no question pending. The remark was more in the nature of a statement than it was in the nature of a question. The Attorney General may put a question.

By Mr. Wilentz:

Q. Do you know a man by the name of Kolat? A. I don't know, no.

Q. You do not? A. No.

Q. When you came into that restaurant in the morning, you didn't see Mrs. Hauptmann, but you saw Mrs. Fredericksen? A. What morning?

Q. Any morning. A. Any morning, yah, that is right.

Q. When you came in at night you saw the two of them, didn't you? A. Not always.

Q. Usually? A. Usually, yah.

Q. What did you tell Strauss in Long Island in 1934, Strauss and those other people in September, 1934? A. That I believe I saw that fellow in Mr. Fredericksen's restaurant on March 1, 1932.

Q. And who was there when you told Strauss that you believed you saw this fellow in Fredericksen's restaurant on the night of March 1, 1934— A. There was Mrs. Strauss.

Q. —'32. Mrs. Strauss— A. Mrs. Strauss, was her brother-in-law George, and there was her nephew, his name is also George, and there was another fellow, his name is Mr. Hauptmann—no, not Hauptmann, Hartmann.

Q. Hauptmann? A. Hartman.

Q. Not Hauptmann? A. No, Hartman.

Q. Hartman. That was, you were living there? A. And then I think there was Mrs. Strauss's—

Q. That was— A. —nephew, another nephew of hers.

Q. When was that that you told Strauss that? A. It must have been in the last part of September.

Q. 1934? A. 1934.

Q. Tell us again what you told Strauss at that party in September, 1934. A. I told her that—

Q. Let's not make any mistake about it, young man. This is in September, 1934. I have repeated it four times and I hope that I am not offending anybody: September, 1934. A. Yes, September, 1934.

Q. You are in Long Island? A. Yes.

Q. You understand that, don't you? A. Yes, I understand.

Q. You don't misunderstand me, do you? A. No.

Q. It is clear to you, isn't it? A. Yes, now.

Q. September, 1934. A. Yes.

Q. 1-9-3-4. A. Yes.

Q. You are in Long Island? A. Yes.

Q. You are talking to Strauss and his people. A. Yes, her people.

Q. Her people? You are telling them then, in September, 1934, that you believe you saw the man whose picture is in the paper, Hauptmann.

Mr. Reilly: No—

Mr. Wilentz: Now, please, just a minute.

The Court: That seems to be legitimate.

Q. That you saw this picture of this man—No. That you saw the man whose picture you see in

the paper, Hauptmann, in Fredericksen's on the night of March the 1st, 1932.

Mr. Reilly: Now, I object to the form of the question, the assertion of "the picture you saw in the paper" as not being the testimony this witness gave before.

Mr. Wilentz: That is his positive testimony, I submit.

The Court: As I recollect it, the witness has so testified. The Attorney General seems to be undertaking to get the witness to certify his impression about the witness's testimony.

Mr. Reilly: Well, we have listened as carefully here as the Attorney General, no doubt, as to this young man's testimony, and his testimony was and is—

Mr. Wilentz: No. I object to this, if your Honor please. This is what I object to, counsel's recollection of the testimony, if he says ours is mistaken, I don't want the witness to get any help. I know it is not intentional.

Mr. Reilly: May I finish, your Honor?

The Court: You certainly may, Mr. Reilly. Now, what is your objection?

Mr. Reilly: My objection is to the form of this question. This witness has repeatedly stated that the first identifying picture of this defendant was four or five

weeks ago. Now he has that he told the Strausses and all the people down there, "I think I know or have seen the fellow that is mentioned in the newspaper."

The Court: Yes.

Mr. Reilly: "But not as I identify it from any pictures." And in the last question of my learned friend here, he says, "Now, get this right: it was September, 1934, and you were with the Strausses and you told the Strausses that from the picture you had seen in the paper you identified the man," when the witness has repeatedly said not.

The Court: Well, now, the Attorney General may put that very question to the witness in question form.

Mr. Wilentz: May I ask the Court—

The Court: Or the Attorney General might, if he wishes to, refer to the record.

Mr. Wilentz: Yes, sir; I will ask that we refer to the record then, and I don't ask the question again. We will stand on the record.

The Court: Yes. Just indicate to the reporter the part of the testimony that you desire read.

Mr. Wilentz: Yes, if your Honor please. (Reading): "What are you saying now, that you told them in September, 1934?"

"That is true," "That is the waitress's husband?" "Yes."

I think that it is much earlier. You had better get the testimony from the late part. I don't want to read the—

The Reporter (reading): "It is clear to you, isn't it? A. Yes.

"Q. September, 1934? A. Yes.

"Q. 1-9-3-4? A. Yes.

"Q. You are in Long Island? A. Yes.

"Q. You are talking to Strauss and his people? A. Yes, her people.

"Q. Her people. You are telling them then, September, 1934, that you believe you saw the man whose picture is in the paper, Hauptmann."

Then there were some interruptions.

"That you saw this picture of this man, no, that you saw the man whose picture you see in the paper, Hauptmann, in Fredericksen's on the night of March the 1st, 1932."

Mr. Wilentz: What is the answer?

The Reporter: There was no answer.

Mr. Wilentz: Well, we want the part before that, where there was an answer.

Mr. Reilly: Oh, yes, long before that.

Mr. Wilentz: Yes, eight before that. Start at the top.

The Reporter (reading): "Tell us again

what you told Strauss at that party in September, 1934."

Mr. Wilentz: Just a little louder. Repeat that again, please.

The Reporter: "Tell us again what you told Strauss at that party in September, 1934. A. I told her that—

"Q. Let's make no mistake about it, young man. This is in September, 1934, I have repeated it four times and I hope I am not offending anybody. September, 1934. A. Yes, September, 1934.

"Q. You are in Long Island? A. Yes.

"Q. You understand that?"

Mr. Reilly: Right before that.

Mr. Wilentz: Right before that, where it says "I am repeating it again."

The Reporter: That is where I took it up.

Mr. Wilentz: Get the sheet before that.

Mr. Reilly: Yes.

Mr. Wilentz: While we are waiting, may I ask him a question or two?

The Court: Yes.

By Mr. Wilentz:

Q. On the night of March the 1st, 1932, was Mrs. Fredericksen there, or Mr. Fredericksen? A. I didn't see them.

Q. Sir? A. I didn't see either Mrs. Fredericksen or Mr. Fredericksen.

Q. Will you say she wasn't there or don't you remember? A. I don't know if she was there, but I didn't see her.

Q. Did you see him? A. No, I didn't see him either.

Q. What time did you leave there? A. I left there I should say quarter to nine or ten minutes to nine.

Q. And Mrs. Hauptmann was still there? A. Yes.

Q. And Mr. Hauptmann? A. Yes.

Q. What time did you get in there? A. I came in there about half past eight.

Q. About half past eight? A. Yes.

Q. They were both in there? A. Yes.

Q. Nobody left, neither one of them left? A. No, no.

Q. They were there during the entire time?

Mr. Wilentz (To the reporter): Have you got it?

The Reporter: Well, this is one page that is finished, copy of page that you want:

"Q. You testified that when you saw his picture you recognized him as being the man—will you please look at me when you are answering the question? A. Sure.

"Q. You testified that when you saw his picture in September, 1934, you recognized it you recognized the fact that that is the man you saw in Fredericksen's? A. Yes.

"Q. On March 1st, 1932? A. Yeh.

"Q. That you knew in September, 1934? A. Not in September.

"Q. When then? A. No, it was not in 1934, it was in 1935, it was this year, I recognized the first time in the newspaper.

"Q. When? A. Just a few weeks ago. It is not so very long ago.

"Q. A few weeks ago? A. Yes.

"Q. Is the first time you ever recognized Mr. Hauptmann's picture? A. By the picture, yah.

"Q. By the picture? Well, you have never seen him any other way since March 1st, 1932, except by pictures? A. What?

"Q. Isn't that right? Since March 1st, 1932, until you walked into this courtroom you had never seen him had you? A. No, I haven't.

"Q. Sir? A. I hadn't.

"Q. You hadn't? A. No.

"Q. All you saw was pictures of him? A. Yes.

"Q. Is that right? A. That is right.

"Q. When was the first time you saw a picture of him? A. The first time I saw a picture it must be the last part of last year.

"Q. Last part of last year? A. I think so.

"Q. And when you saw his picture the last part of last year what did you see in connection with the picture? Was there a story? A. I didn't pay much attention to the picture.

"Q. Oh, why don't you tell us? Was there a story there? A. I guess there was.

"Q. Did you read it? A. Maybe I did.

"Q. Was it about the Lindbergh case? A. It must have been if there was a story.

"Q. Was there a story? A. If there was it must have been.

"Q. Did you see it more than once? A. The story?

"Q. The picture? A. The picture?

"Q. You saw it every night, didn't you? A. Not every night, because I didn't buy the paper every night."

"Q. 1934? A. 1934.

"Q. Tell us again what you told Strauss at that party in September, 1934. A. I told her that—

"Q. Let's not make any mistake"—

Mr. Wilentz: That was interrupted.

Q. What did you tell Strauss in September, 1934? A. I told her that I believed that fellow that was in the newspaper there, was written about in the newspaper.

Q. Louder. You told her—. A. I told her that that fellow was written about in the newspaper because they said it was the husband of the waitress, it must be him that I saw in the restaurant. I said I believe I saw him in that restaurant.

Q. Why did you say you believed you saw him? Why did you tell that to Strauss? A. Because the paper said he was the husband of, she was the wife of him.

Q. The paper said she was the wife of what? A. He was the husband of Mrs. Hauptmann.

Q. That who was the husband of Mrs. Hauptmann? A. Mr. Hauptmann was the husband of Mrs. Hauptmann.

Q. How did you know he was the husband, the man they were talking about? A. That's what the paper said.

Q. Well, you didn't know he was the husband on the night of March 1st? A. No, I didn't.

Q. But you knew it when you saw the picture?

A. Not the picture, when I read about it in the newspaper. It said there that he was the husband of the waitress that was working in the restaurant up on Dyre Avenue.

Q. The paper said that the husband of Mrs. Hauptmann was arrested in the Lindbergh case, is that right? A. I don't know if it said that.

Q. Well, what did you say it said? A. It said that the wife of him was working at the restaurant on Dyre Avenue at Mr. Fredericksen's restaurant.

Q. The wife of the man that was arrested was working at the restaurant? A. Yes.

Q. And you told Strauss that you believed he was the man that you saw in Fredericksen's restaurant on March 1st? A. Yes.

Q. That was in September? A. Yes.

Q. Was there a picture of Hauptmann in that paper that day? A. I don't remember if there was any.

Q. Was there a picture before the day that you told that to Strauss? Any time before that very day that you had this conversation with Strauss, picture of Hauptmann? A. Not so far as I know.

Q. Did you see a picture of the man who was supposed to be the husband of Mrs. Hauptmann in the paper that month before you talked to Strauss? A. I don't think I did.

Q. You saw pictures of her? A. Of her once.

Q. But not of him? A. I think I saw it once of her.

Q. And how many times of him in September, 1934? A. I don't know if I saw any.

Q. Did you see any of his pictures in October of 1934? A. Maybe I did.

Q. Well, did you see a picture of the man who was charged with the crime in the Bronx? A. I can't remember if it was in October or—

Q. Did you see it in November? A. Maybe I did.

Q. Well, I don't want any maybe, I want to know if you did. Did you see any in November? A. If there was any in the newspaper when I bought it, then of course I saw it.

Q. Yes, if there was any in the newspapers when you bought them, then of course you saw it. A. Yes.

Q. Now, you did see it at the end of 1934, isn't that so, some time during the end of 1934? A. Yah.

Q. Will you say what month it was? A. When I saw his picture?

Q. Yes. A. It was before Christmas, I know that.

Q. You saw Hauptmann's picture before Christmas, 1934? A. Yah.

Q. With Mr. Reilly? A. No.

Q. What is the address of the Strauss'? A. It is 465 West Broadway, Cedarhurst, Long Island.

Q. Cedarhurst, Long Island? A. New York.

Q. Have they a telephone? A. I don't think so.

Q. You don't think so.

The Court: Mr. Attorney General, it is about the usual recess time.

Mr. Wilentz: Of course the witness will return.

The Court: Yes. The witness will return here tomorrow morning at ten o'clock.

We will take a recess until tomorrow morning at ten o'clock. The audience will remain seated until the jury has retired.

(The jury retired from the court room.)

The Court: The prisoner is now remanded to the custody of the sheriff. The Court will now take a recess until tomorrow morning at 10 o'clock.

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(At 4:39 p. m. the further trial of the case was adjourned until tomorrow morning, Thursday, January 31st, 1935, at ten o'clock.)

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Opening—Twenty-second Day

STATE vs. HAUPTMANN

FLEMINGTON, N. J., January 31, 1935.

TWENTY-SECOND DAY

Present:
Hon. Thomas W. Trenchard.

Appearances:
Mr. Wilentz,
Mr. Lanigan,
Mr. Peacock,
Mr. Large,
Mr. Hauck,
For the State.

Mr. Reilly,
Mr. Fisher,
Mr. Pope,
Mr. Rosecrans,
For the Defendant.

(10:04 A. M.)

(The jury was polled and all jurors answered present.)

The Court: Is the defendant in court?

Court Crier Hann: The defendant is in court.

The Court: Elvert Carlstrom will resume the stand.

ELVERT CARLSTROM resumed the witness stand:

Mr. Pope: Will the Court bear with us a moment. We are in consultation over a matter which we consider of importance.

The Court: Yes.

(Counsel confer.)

Mr. Pope: We will talk to the Judge about this at the side of the bar.

(Counsel conferred with the Court at the bench out of the hearing of the jury.)

(10:26 A. M.)

The Court: Mr. Attorney General you may resume the examination.

Cross-Examination (continued) by Mr. Wilentz:

Q. Mr. Witness, you testified here yesterday that you saw the defendant only once, the defendant Hauptmann, and that was the night you saw him in the restaurant on March the 1st, 1932. A. That's right.

Q. That's correct, isn't it? A. That's correct.

Q. You testified that you went up to the Bronx that night because you went up to see a lady of whom you were very fond? A. Yes, that's right.

Q. Did you see the lady? A. I did.

Q. You saw her at her home? A. I beg your pardon?

Q. Did you see her at her home? A. I didn't call at her home.

Q. Sir? A. I didn't call at her home.
Q. Did you see her that night? A. I didn't.
Q. Oh, you did not? A. I did not.
Q. I beg your pardon. Did you go to her home to see her? A. I did not go to her home.
Q. Well, that was the purpose of your visit, wasn't it? A. Yes, it was.
Q. What changed your mind? A. Because I wouldn't call that late in the evening.
Q. You wouldn't call that late in the evening? A. No.
Q. How late was it? A. When I came out from the restaurant it was at least ten minutes to nine.
Q. What time did you get into the restaurant, sir? A. I figure about half past eight in the evening.
Q. It might have been eight o'clock, I suppose? A. I don't think so.
Q. How about quarter after eight? A. No.
Q. Twenty after eight? A. I couldn't get up that early.
Q. Well, I mean how do you fix the time? Did you look at your watch? A. Yah, not on my watch, but at the, at the clock in the subway.
Q. Sir? A. At the clock in the subway.
Q. What time was that? A. When I looked at the clock in the subway it was five minutes, it was 8:25.
Q. Five minutes to eight or 8:25? A. 8:25.
Q. Where was that? A. It was at the station.
Q. You lived in Dunellen in this house alone, you testified yesterday, is that correct? A. Yes, I did.
Q. You understand the question and you understood the question and you understood the answer, didn't you? A. Yes.
Q. When you got through eating at the Fredericksen's, then where did you go? A. Then I went

down, I think I went down to Broadway, I am not sure, but I went to the movies.

Q. What time did you get out of the movies and where did you go, sir? A. When I went out from the movies I went down to Brooklyn.

Q. To Brooklyn? A. Yes, I did.

Q. What time did you go to Brooklyn? A. I would say I went down to Brooklyn about one o'clock.

Q. In the morning? A. In the morning.

Q. And when you got to Brooklyn, what did you do there? A. (No answer.)

Q. May I have an answer?

The Court: Answer the question.

Q. Do you understand the question? A. Yes, I do.

Q. Will you please answer it? A. (No answer.)

The Court: What is this question?

Mr. Wilentz: What did you do in Brooklyn after you left New York early in the morning?

Mr. Reilly: I don't know what the answer might be, but the hesitation might be that it is incriminating, possibly that might be it.

The Court: That is not for counsel to suggest. That is for the witness.

Mr. Reilly: Might the Court, might the Court take the witness in hand at this moment and ask him whether—

The Court: I don't think it is any duty upon the part of the Court. I am telling this witness to answer this question and it is for him to answer or tell why he does not.

Mr. Wilentz: I appreciate your Honor's ruling, but I have no objection to the suggestion of Mr. Reilly.

Mr. Reilly: I don't know what the answer is going to be.

Mr. Wilentz: Well, you suggested it might incriminate him and I am willing to tell the witness, if there is no objection from the Court, that if it is his feeling that it will tend to incriminate him or degrade him that he has the right to say so.

The Witness: Yes.

Q. Will your answer incriminate you? A. Yes.
Q. It will? A. Yes.
Q. And that is why you don't want to answer? A. Yes.
Q. All right; I will pass that then, if that is the way you feel about it. Then you tell me, please, what time you left Brooklyn? A. I left Brooklyn I should say about five o'clock in the morning.
Q. Yes, sir. And from there where did you go? A. Then I went up to the Grand Central.
Q. Yes, sir. A. From there I went down to—to the railroad station on Liberty Street and West End Avenue, and there I took the train.
Q. To Dunellen? A. To Dunellen.
Q. What time did you get to Dunellen? A. I got home about, I should say, about nine o'clock, half past nine, in the morning.

Q. Half past nine in the morning. And you went to work? A. Yes.

Q. That was March the 2nd? A. That was March the 2nd.

Q. And then you read the newspapers about the Lindbergh case, didn't you, that day? A. I don't think I did.

Q. Well, you wouldn't say you didn't, would you? A. Maybe I bought a newspaper; I am not sure.

Q. When you did go into Fredericksen's restaurant on the night of March the 1st, 1932, and you saw the Defendant Hauptmann there, he was reading a newspaper, wasn't he? A. Yes, as far as I could see.

Q. Sir? A. As far as I could see.

Q. Well I am only talking about the time that you could see him? A. Yes.

Q. As far as you could see he was reading a newspaper? A. (The witness nods.)

Q. You had never before seen him in your life? A. I never had.

Q. And you haven't seen him since? A. No, I haven't.

Q. Esther was a friend of Mrs. Hauptmann, she knew Mrs. Hauptmann, didn't she, and she knew Mr. Hauptmann, didn't she? A. I don't know if she knew Mrs. Hauptmann, but I guess she knew Mr. Hauptmann.

Q. You know that she knew Mrs. Hauptmann? A. I don't know.

Q. Were you ever out with Esther? A. I was up at her home.

Q. Did you ever go out with Esther? A. I did not.

Q. When you went up to her home, did you go up to her home at her invitation or did you go up of your own inclination? A. On my own.

Q. So that you and she didn't keep company at all, did you? A. No, we did not.

Q. You never had one engagement or appointment with her, did you? A. No, I hadn't.

Q. Well, why did you bring her name into this thing then yesterday? Well, I will withdraw the question.

Q. Just a few more questions and I will be through. When you got back to Dunellen on the 2nd of March and particularly at 9:30 in the morning, did you see anybody there that you remember now? A. No, I don't think so.

Q. When you were in Dunellen—you will remember, please, that you occupied this home in Dunellen, as you testified, alone? A. Yes.

Q. During this period and at that time you were working for Christiansen? A. That is right.

Q. Mr. Christiansen kept a little book about expenses of that building, construction costs, didn't he? A. I guess he did.

Q. You saw him mark down little figures, didn't you? A. I didn't.

Q. Would you recognize his book if you saw it? A. Maybe.

Q. Christiansen's book? (Showing witness a book.) Expenses on Washington Avenue, Dunellen, New Jersey. Would you recognize it (turning over leaves of book)? A. Yes, I guess that is his writing.

Q. You guess it is his writing. You have seen his writing, haven't you? A. No, not yet.

Q. Is that his writing? A. (Examining book.) I guess it is his writing, I am not sure.

Q. You are not sure.

Mr. Wilentz: Will you please mark this book which he says he guesses is his writing for identification?

The Reporter: S-277 for identification.

(Book referred to is marked State's Exhibit S-277 for identification.)

The Court: Whose writing is this?

Mr. Wilentz: He guesses it is Mr. Christiansen's writing.

Q. The Mr. Christiansen we are talking about is the man who was your employer. A. Yes.

Q. That is Mr. Oscar Christiansen, is it? A. That is right.

Q. Now the Mr. Larsen you talked about yesterday, will you take a look over there? Where is Mr. Larsen? Stand up, please, Mr. Larsen.

(A man stood up in the courtroom.)

Q. Is this the Mr. Larsen you talked about? A. Yes, Arthur Larsen.

Q. You know his name today. That is the man, the Larsen, the painter that you talked about, that is the Larsen in whose home you worked at, isn't that so, in whose home you lived? A. That is right.

Q. Arthur Larsen, the man who just stood up? A. That is right.

Q. Now Arthur Larsen worked with you at Dunellen, did he not? A. Yes, he did.

Q. Arthur Larsen lived with you at Dunellen, didn't he? A. He didn't live there.

Q. Didn't he live in the same house that you did? A. No, he didn't live there, he lived in the Bronx.

Q. He worked there? A. Yes, he worked there.

Q. When he worked there, he stayed there? A. Yes, he did.

Q. He didn't go back to the Bronx each night, did he? A. No, he didn't.

Q. He stayed in the house with you? A. Yes.

Q. He stayed there and slept with you? A. Yes.

Q. And you see yesterday afternoon I asked you many questions about whether or not you were in this house alone and you said yes. A. I was living there alone.

Q. Yes, sir. And you said you were sleeping there alone? A. I never did say I was sleeping alone.

Q. You never said a word about Larsen staying there in the house, did you? A. Because you never asked.

Q. You never said a word, alone you said, didn't you? A. (No answer.)

Q. When you went to the Bronx on the night of March 1st, 1932, you went into your rooming house somewhere in the Bronx and changed your clothes, didn't you? A. When?

Q. On the night of March the 1st, 1932, the night you were in Fredericksen's bakery, the night you saw Hauptmann? A. No, I did not.

Q. You did not. Do you remember I asked you yesterday: "You occupied a house yourself in Dunellen, or did you live with a family?" "I was there alone." "Did you occupy a house yourself?" "Yes." "A whole house?" "Yes." "You lived in a house in Dunellen that was not furnished and you occupied the whole house?" "Yes, I did." "An empty house?" "Yes." "A new house?" "Yes, it was newly built." Those were your answers, weren't they? A. Yes.

Q. And all the time you knew that during the time you were there, particularly in February, 1932, and in early March, 1932, you knew yesterday, didn't you, that Larsen was working with you there and staying in the house with you; isn't that the fact? A. He was not staying there always.

Q. He slept there every night except the week-ends, didn't he? A. That is right.

Q. So he stayed there with you every night except the week-ends when he returned to his wife and children? A. That's right.

Q. Yes. And so of course he was there on the night of March the 1st, 1932, wasn't he, a Tuesday night? A. He was not.

Q. Where was he? A. He was not there.

Q. Where was he? A. I don't know.

Q. Where was he Monday night? A. He was not there Monday night, either.

Q. Well, didn't you just tell us that he worked with you and stayed at that place during the week in February and in early March? A. He was not there that time.

Q. The truth of the matter is, is it not, that you never left Dunellen on any week day night at all? Isn't that the truth? A. I never left on the week-end.

Q. Only on week-ends? A. Never on the week-end.

Q. Did you leave that house in Dunellen for the Bronx any night at all except a week-end night? A. During that time I was living there I left Dunellen once, March 1st, in the evening. It was on a Tuesday, I suppose.

Q. Don't you remember the day that Mr. Larsen, some messenger came out from the Bronx to tell Mr. Larsen that his wife was sick, in March, 1932? A. No.

Q. You don't remember the messenger coming from Mr. Christiansen to tell Mr. Larsen his wife was sick and he ought to come home to the Bronx? A. No.

Q. And don't you remember that was the day after the Lindbergh kidnaping and that Mr. Larsen

then left, either March the 2nd or March the 3rd, to see his wife? A. No, I don't remember.

Q. And don't you remember that the night before, on the night of March the 1st, 1932, you and he both slept in that house there in Dunellen? A. When?

Q. On the night of March the 1st, 1932. A. We did not.

Q. You did not? A. No.

Q. If Mr. Christiansen's records show that Mr. Larsen was there, you would believe that, wouldn't you? A. No, I wouldn't believe it.

Q. You wouldn't believe Christiansen's records, either? A. No.

Q. Mr. Christiansen is the man that gave you your job, isn't he? A. Yes.

Q. Do you remember Arthur Abramson as being the man who came out to Dunellen to tell Mr. Larsen about his sick wife? A. No, I don't.

Q. You do not? Mr. Christiansen came out at the end of March to move into the house in Dunellen, didn't he? A. He moved in there in the middle of April, if I am not mistaken.

Q. Didn't you leave for New York, on April 2nd, 1932? A. I don't think I did.

Q. Didn't Mr. Christiansen take you back to New York on April 2nd, 1932? A. I don't think he did.

Q. If Mr. Christiansen's book—

Mr. Reilly: Oh, I object to this as not in evidence.

Q. If Mr. Christiansen's records show that, you would believe the record as against your memory, wouldn't you?

Mr. Reilly: I object to that. This is an ingenious way of proving what Mr. Christiansen wrote.

Mr. Wilentz: We will prove it in another way, if this is ingenious.

Mr. Reilly: I say this is not the way to prove it, by this man. He said he wouldn't believe the book. He has already said that he doesn't know anything about the book, doesn't identify the book as Mr. Christiansen's. The best he can say is it looks like it, and I—

Mr. Wilentz: I withdraw the question for the moment.

Mr. Reilly: I strenuously object to the Attorney General standing up there with a book—

The Court: The question is withdrawn.

By Mr. Wilentz:

Q. Mr. Christiansen is a fine, honest man, isn't he? A. Yes, he is.

Q. So far as you know? A. Yes, he is.

Q. A reputable man? A. Yah.

Q. And you know of no reason why Mr. Christiansen would keep false records, do you? A. No.

Q. And if Mr. Christiansen's records are different from your testimony, you would believe Mr. Christiansen's records, wouldn't you? A. I believe my own testimony.

Q. Just one other question, sir. You remember now that your testimony yesterday was that the first time you recognized a picture of Mr. Hauptmann

was when you saw it with Mr. Reilly in the newspaper; is that correct? A. That is when I first recognized him that I was sure, was when I saw him with Mr. Reilly.

Q. That is the first time. You recognized no other picture then of Hauptmann? A. I think I saw one that was like him some times in September or November.

Q. But you didn't recognize it as being the man you saw in the restaurant? A. Not exactly.

Q. And you didn't know his name when you came into court, did you? A. Well, I read it in the paper; that is all I know.

Q. You say you read the New York Journal? A. Yes, I did.

Q. Did you see these pictures in October (showing paper to the witness)? A. No.

Q. You did not? A. I did not see them.

Mr. Wilentz: I want the front page marked for identification.

The Reporter: S-278 for identification.

(Paper marked S-278 for identification.)

Q. You read the New York Journal, and did you see this picture, September 24th, of the defendant, on the front page? A. Not what I can remember.

Q. Is that the picture of the man you saw in the Fredericksen's bakery? A. Yes, he looks like him there.

Q. You didn't see that picture? A. I don't think I did.

Q. You read the Journal every day, didn't you? A. Not always every day.

Q. Well, pretty nearly every day? A. Yes.

Mr. Wilentz: Will you mark the front page of that.

The Reporter: S-279 for identification.

(The paper was marked S-279 for identification.)

Q. On September the 29th did you see these pictures of Mrs. Hauptmann on the front page of the New York Journal? A. I don't think I did.
Q. You don't think you did.

Mr. Wilentz: Will you please mark that for identification.

The Reporter: S-280 for identification.

(The paper was marked S-280 for identification.)

Q. On September 27th, did you see this picture of Mr. Hauptmann on the front page (presenting a newspaper to the witness)? A. Maybe I did, I am not sure.
Q. If you did, you didn't recognize him as being the man in the restaurant that night, is that right? A. It doesn't look like him there.

Mr. Wilentz: I offer the newspaper for identification.

(The newspaper referred to was marked State's Exhibit S-281 for identification.)

Q. Some time on or about the 27th of September did you see this picture on the front page of the

Journal (presenting a newspaper to the witness)? A. I never saw it.

Mr. Wilentz: Will you mark that for identification?

(The newspaper was marked S-282 for identification.)

Q. I show you seven pictures on the front page of the New York Journal, issue of September 28th, of the Defendant Hauptmann, and ask you whether you saw any of those pictures (presenting a newspaper to the witness)? A. Yes, I saw all of them.

Q. September 28th. Did you recognize that as being the man you saw in the bakery that night? A. It didn't look like him there.

Q. It didn't look like him? A. No, those pictures didn't.

Q. Those seven pictures didn't look like the man you saw in the bakery that night? A. Not when I was looking at the pictures.

Q. Of course you were looking at the pictures.

Mr. Wilentz: Please mark it for identification.

(The newspaper was marked State's Exhibit S-283 for identification.)

Q. On September the 29th or thereafter did you see this picture of the defendant Hauptmann in the New York Journal? A. No.

Q. Didn't see it? A. No.

(The paper was marked S-284 for Identification.)

Q. On October 1st, 1934, did you see these three pictures of the defendant Hauptmann in the issue of the New York Journal or some time thereafter? A. Not what I can remember.

Q. Can't remember? A. No.

(The paper was marked S-285 for Identification.)

Q. On September 24th or thereafter, did you see these pictures of Mr. and Mrs. Hauptmann in the issue of the New York Journal of September 24th? A. No.

Q. You did not? A. Not what I can remember.

Q. Not that you can remember.

(The paper was marked S-286 for Identification.)

Mr. Wilentz: Now I want to apologize to the jury. I have purposely refrained from letting the jury see those papers because there are other matters in the paper besides the pictures —at least for the time being.

I think that is all I have with the witness.

Re-Direct Examination by Mr. Reilly:

Q. When Mr. Christiansen sent you over to take charge of the house in Dunellen, what were you supposed to do there? A. I was supposed to take care of the fire.

Q. How long had the house been built, if you know? A. He started—it was built in the last part of 19—1931.

Q. And what month did you go over there to take care of the fire? A. I went over there the 1st, I can't remember, in the beginning of February.

Q. 19—? A. 1932.
Q. 1932? A. Yes.
Q. And was it your usual duty to live there? A. Yes.
Q. And take care of the fire, is that correct? A. Yes, that is correct.
Q. Now, this man Larsen that they brought here and had stand up; this is the man you lived with? A. Yes.
Q. Where? A. In Dunellen.
Q. Did you live with him in The Bronx? A. Yes, I did live with him there too.
Q. Now, what was his duty so far as this house was concerned, in Dunellen? A. His duty was to paint inside.
Q. Paint inside the house? A. Yes.
Q. Now, when did he first come there to paint? A. I don't remember.
Q. After you did? A. He came after I did, came there.
Q. About how long after you? A. I don't remember.
Q. And about how long was he engaged in painting? A. I guess it took him about one week or something, maybe a little more.
Q. But you were the caretaker of the house, is that correct? A. That's correct.
Q. It was in your care and custody, is that correct? A. That's correct.
Q. And you lived there, didn't you? A. Yes.
Q. Now you say he stayed there at night when he was painting? A. That's right.
Q. But he was not the caretaker, was he? A. No, he wasn't.
Q. And not in charge of the house? A. He was not.
Q. Now you stated here yesterday in answer to the Attorney General, one of the reasons why you

recognized Hauptmann on March 1st, 1932, in that restaurant was because he laughed at you, is that right? A. That is right.

Q. Now, will you describe the incident to the jury about the laughing? What caused him to laugh? A. Because when I was ordering my meal up there in the restaurant I didn't speak so very good English and when Mrs. Hauptmann, the waitress passed by that man sitting there she said something to him and then he turn around like that (witness turning head to the right side and laughed, that is why I thought he was laughing at me, that is why I get mad.

Q. Did you go up to him or say anything to him? A. I did not.

Q. But you took a good look at him, didn't you? A. I did.

Mr. Wilentz: I move that that be—Well, all right. He is too fast for me.

Q. It made you mad to be laughed at, is that correct? A. That is correct.

Q. Now, you have given an answer here that you don't care to speak about what transpired between one a. m. on March 1st and five o'clock in the morning in Brooklyn, is that correct? A. That is correct.

Q. And you said in answer to the Attorney General's suggestion, which was quite legal and proper, that it might incriminate you, is that correct? A. Yes.

Q. But it would not incriminate you in any way in the Lindbergh kidnaping, would it? A. I don't think it would.

Q. Well, now, were you between—do you care to say whether you were in the company of any women between one a. m. and five a. m.? A. Yes, I was.

Mr. Reilly: That is all.

Re-Cross Examination by Mr. Wilentz:

Q. You weren't with Mr. Hauptmann that night between one and five, were you? A. I was not.

Q. When Mr. Hauptmann laughed at you, you were sitting in back of him, weren't you? A. Yes, I was.

Q. And just about as our positions are now, is that correct? (Illustrating, sitting on chair with back to the witness.) A. If you will turn a little more the other way.

Q. To the right or to the left? A. To the right.

Q. Like this? A. Like that.

Q. And that is the view you had of him while you were sitting in that restaurant, is that it? A. Yes.

Q. And the only time you saw his face was when he turned around and laughed at you? A. That is right.

Mr. Wilentz: That is all.

By Mr. Reilly:

Q. Was he there as you paid your check and passed out? A. Yes, he was there.

Q. Did you look at him as you passed out? A. Yes, I guess I did.

Mr. Reilly: That is all.

By Mr. Wilentz:

Q. What do you mean, you guess you looked at him? You are not sure, is that what you mean? A. I don't remember if I did or not.

Q. You didn't leave this house in the Winter time all night without somebody to take care of the furnace? That was your job, you had left it for 13 hours? A. I was not supposed to leave there.

Q. You left without being supposed to leave? A. I did.

Q. You left that furnace from about five o'clock, wasn't it, or six o'clock? What time did you leave Dunellen? A. I left Dunellen about a quarter of six.

Q. From a quarter of six in the evening of March 1st until 9:30 the next morning? A. Yes.

Q. Unprotected, unguarded and uncared for? A. Yes.

Q. And a new house? A. It is a new house.

Q. And the very purpose you were there was to see to it that the pipes didn't burst, it being a new house, isn't that right? A. That's right.

Q. And you didn't let anybody there in your place to take care of this building and property of your employer? A. I did not.

Mr. Wilentz: That's all young man.

By Mr. Reilly:

Q. Was it warm when you left the house? A. The fire was not so very high.

Q. You played hooky on your job because of your birthday, is that it? A. (The witness nods.)

Mr. Reilly: That is all.

By Mr. Wilentz:

Q. Did you have any other birthday that year? A. I didn't have any more.

Q. You only played hooky once there? A. (No answer.)

Mr. Wilentz: All right.

Mr. Reilly: That is all.

The Court: Counsel will excuse me for a moment, please. You may call your next witness, Mr. Reilly.

Mr. Reilly: Yes, Judge.

(The Court left the bench.)

LOUIS KISS, sworn as a witness on behalf of the defendant.

Direct Examination by Mr. Reilly:

(The Court returned to the Bench.)

Q. Where do you live? A. New York.
Q. Whereabouts? A. 243 East 78th.
Q. You will have to speak a little louder. We all want to hear you. What is your business? A. I am a silk painter artist.
Q. A what? A. A silk painter artist.

The Court: What is that? I didn't get it.

The Witness: Silk painter.

Mr. Wilentz: Silk painter?

The Court: Silk painter?

The Witness: Yes, sir, painting on silk, wall decoration.

Mr. Wilentz: Artist?

The Witness: Yes, sir.

By Mr. Reilly:

Q. And how long are you in the United States? A. Since 1922.

Q. Where did you come from? A. Hungary.

Q. After coming to the United States where did you first live? A. 84th Street, 606 84th Street, east side.

Q. East or west? A. East.

Q. And where did you work while you lived there? A. First time I worked for three weeks for the Fisher Music Store on Cooper Square.

Q. Cooper Square? A. Yes, sir.

Q. Are you a musician? A. No.

Q. And how long did you work for the music house on Cooper Square? A. I think three or four weeks.

Q. Is that 14th Street? A. No.

Q. Cooper Square? A. No. I think 8th Street or 9th Street.

Q. Down around Wanamaker's? A. Yes, sir.

Q. Well, after leaving the music publishing house where did you go to work? A. Right next day I went to work between 81st and 82nd Street on Second Avenue, the restaurant, Mike Linfeld. I was bus boy there.

Q. And how long did you work there? A. One year.

Q. What year was that? A. 1923.

Q. Well, now, where did you work in 1932? A. In mein studio; in mein studio.

Q. Your own studio? A. 22 East 22nd Street, ninth floor.

Q. How long had you had a studio? A. On that place, I had about a half year long.

Q. Now, did you ever live in The Bronx? A. Never.

Q. Did you know where Fredericksen's restaurant was in The Bronx? A. No.

Q. On March 1st, 1932, were you in Fredericksen's restaurant in The Bronx? A. Yes; later I find out that it was Fredericksen's.

Q. When did you find out that it was Fredericksen's restaurant? A. Now, Sunday; this Sunday.

Q. Last Sunday? A. Last Sunday.

Q. Now, tell the jury first how you came to be a witness in this case? A. Sunday afternoon I was home and I read the newspapers and I pick up a paper, it was around nine o'clock in the evening, where I saw a little article, it was telling something about a dog in connection with this Hauptmann trial, that somebody wanted to take away the dog from him; but since Mr. Hauptmann was arrested in the first day when I saw his picture in the paper, I went home and I told my wife, I said—

Mr. Wilentz: No, just a minute now.

Q. Never mind what you told your wife. You told her something after seeing his picture? A. After I saw his picture.

Q. Don't tell us what you said. After you saw his picture you told your wife something, is that right? A. Right.

Q. Then when you read the article about the dog —A. I jumped up and I says to my wife—

Mr. Wilentz: Never mind that.

Q. Never mind that. You said something to your wife? A. Yes, sir.

Q. And after you said something to your wife, was it about the article and the dog, yes or no? A. Yes, sir.

Q. What did you do? A. I put on my shoes, I take my coat, I went out to the drug store and I called up Mr. Reilly's office.

Q. Where? A. 26 Court Street.

Q. When was that? A. After nine o'clock, between nine and ten.

Q. When? A. Sunday evening last.

Q. And after that what did you do? A. I didn't get any answer, so I picked out from the telephone book Mr. Reilly's residence address. I called up.

Q. The Brooklyn residence? A. Yes, sir.

Q. And you communicated with that? A. Yes, sir.

Q. And they told you to report here in Flemington, is that correct? A. No. I talked to Mrs. Reilly and she said—

Q. Never mind what she said. You said something on the telephone? A. Yes, sir.

Q. And then what did you do? A. One day at 12 o'clock I came to Mr. Reilly's office, Brooklyn, 26 Court Street.

Q. What did you do after that? A. A gentleman told me I should come out here.

Q. You came here? A. The next day at nine o'clock I should come in the office.

Q. In Flemington? A. No.

Q. In Brooklyn? A. The same office.

Q. Did you? A. I went.

Q. When did you first come to Flemington? A. Tuesday morning.

Q. Of this week? A. 12 o'clock train.

Q. Of this week? A. Day before yesterday.

Q. That was the first time you ever saw any of

the counsel in this case? A. That evening at six o'clock I saw you, Mr. Reilly.

Q. The first time you ever saw me? A. Yes, sir.

Q. Now, were you in Fredericksen's restaurant March the 1st, 1932? A. Yes, I was.

Q. Now tell us how you came to be in Fredericksen's restaurant March the 1st, 1932. A. I supposed to take two pints whiskey to a friend of mine in the Bronx, but in the evening at six o'clock I went to another friend of mine, 65th Street—

Q. A little louder, please, and a little slower. A. 65th Street and Broadway corner is a friend of mine, Mr. Thomas LeMartyre. I went up to him at six o'clock with that little package, because he is supposed to make some design for the next day for me. From there I took the subway on 66th station to go up to Bronx. On 72nd Street I changed and I took the wrong train; I took the Van Cortlandt Park train.

Q. What? A. The Van Cortlandt Park train.

Mr. Wilentz: Van Cortlandt Park.

A. (Continuing.) When the subway came out, the train from the subway, in the air, then I saw that I took the wrong train. Then I decided to go up to 238th Street, because I was leaving there about 238th or 239th.

Q. 238th Street? A. 238th Street.

Q. Whereabouts? A. By Van Cortlandt Park, one station back.

Q. Now, 238th Street, not to interrupt your story, but 238th Street and Van Cortlandt Park, that's on the west side of New York, isn't it? A. Yes, sir; yes, sir.

Q. The Bronx is on the east. A. Yes, sir.

Q. So that when you took by mistake a Van Cort-

landt Park subway train you were riding up the west side. A. Yes, sir.

Q. Of New York. A. Yes, sir.

Q. Instead of being on the east side. A. Yes, sir.

Q. Or the right hand side of the Bronx, is that right? A. Right.

Q. Now, how many years ago did you live on the west side of The Bronx? A. I was living on Sherwood Terrace, about 238th Street, 1925, when mein boy was born.

Q. Sherwood Terrace? A. Sherwood Terrace.

Q. At 238th Street? A. One block from the subway station.

Q. When was your boy born in that house? A. Not in that house, in Jewish Memorial Hospital, Dyckman Street Hospital.

Q. But you were living there at that time? A. No, I was living on 189th Street that time when the boy was born.

Q. West side or east side? A. West side; 602 West 189th Street.

Q. So that you had lived at some time in your life before March the 1st, 1932, up on the west side of The Bronx at two different places? A. On the west side I was living.

Q. Yes, the west side of The Bronx, twice? A. If that is, belongs to Bronx.

Q. 189th Street and 238th Street? A. Right.

Q. Now, after getting on the wrong train, getting off at 125th Street, where did you go? A. I took a street car to cross to East Bronx.

Q. What street car? A. A street car which was going from 238th Street 'cross to Bronx.

Q. Crosstown? A. Yes.

A. (Continuing) A couple of blocks away somebody told me I have to take a bus because that doesn't go way to East, so I went up from the street car, I took a bus.

Q. Yes, go on. A. I read my newspaper in that bus and once I looked up and I saw one-family houses around, so I—

The Court: Saw what?

The Witness: One-family houses around.

Mr. Wilentz: He looked around and saw one-family houses around.

The Court: Oh, yes.

The Witness: Empty spaces, so I thought to myself—

Mr. Wilentz: Now, never mind what you thought to yourself.

A. I went up, I get up from the bus and I was looking around to ask somebody where I am. Finally I found a man, there was a railroad track up like the, like the elevated lines, but it is not elevated, like a railroad track, and just underneath I found a man who was coming opposite me and I asked him where is the subway station, so he pointed I should go one block straight and turn in 233rd Street, I go in about ten minutes I found the subway station.

Q. And where was that subway station? A. 233rd Street.

Q. 233rd Street? A. '33rd, yes, sir.

Q. And what other avenue? A. I can't tell you, sir.

Q. Was it on the East Side? A. East Side.

Q. Now, having arrived at the subway station, what did you do?

Q. Having arrived at the subway station, what

did you do? A. I left that man and I looked at my watch, it was 8:15, a quarter after eight.

Q. As I passed that man after I talked to him, a couple of steps farther I saw a bakery lunchroom. I went in for a cup of coffee. I took a cup of coffee and a cake.

Q. Where was the bakery lunchroom? A. In the street where the man told me I should turn into 233rd Street.

Q. Do you know what street it is? A. Now I know.

Q. What street is it? A. Dyer Avenue.

Q. Dyer Avenue, and what time did you arrive in that bakery lunchroom? A. A quarter after eight. I recall looking at my watch.

Q. Did you sit down and have something to eat? A. Yes, sir.

Q. Who waited on you? A. A lady.

Q. Now, was there anybody else in the place at that time eating? A. Yes, sir.

Q. About how many? A. I can't tell you, sir.

Q. Now, did anything happen in that place?—Or tell us what did happen in the place that you saw or observed while you were there. A. I was almost finished mein coffee when the door opened, my back was to the door and the dog run in.

Q. What kind of a dog? A. Like they call police dog.

Q. Yes. A. Brown and blackish hair.

Q. How near were you to the door? A. The dog came right to me, he was running around there.

Q. How near were you sitting to the door? A. I don't know.

Q. How many tables away from the door, if you remember? A. The dog was running past me.

Q. The door, not the dog. How near were you sitting to the door? A. I can't tell you, sir.

Q. Well, the dog came in. Did anyone come in with the dog? A. Yes, a man.

Q. What happened concerning that man? A. That lady who served me the coffee came from the back and that man about two or three feet in front of me met that lady, and that man saying to him in German, "Somebody want to take away the dog." That is the way how I remember the whole thing, because he saying that in German. Then I looked up at the man and I drink my coffee and I walked off. I forgot the whole thing.

Q. What did the man say in German to the lady? A. "Je mann hat voll das dog—das hunt vechnamen."

Q. Now, will you give us your translation of that as you understood it in English? A. "Je mann" is "somebody." "Hat voll" is "wanted." "Das hunt," "the dog."

Q. Somebody wanted to take the dog away? A. Yes. "Vechnamen," "take away."

Q. Now, did you get a good look at the man? A. Yes.

Q. The restaurant was well lighted? A. Yes.

Q. And it is a fact that that was said in German, as you testified, and that that impressed it on your mind. A. That is what I looked up from my coffee.

Q. When did you first see after that the picture of the man that said that in German? A. The first day when Mr. Hauptmann was arrested.

Q. Now, do you see the man in the court room? A. Yes, sir.

Q. That you saw come in with the dog and speak those words in German? A. Yes, sir.

Q. Where is he? A. (Arising and pointing.) Right there.

Q. Now, point out. (The defendant arose.) Is that the defendant you are speaking of? A. Yes.

Q. Sit down. A. He was looking a little bit better, fatter.

Q. So that as you testified here when you saw his picture in the paper you had a recollection of his face, is that correct? A. Of his face, yes.

Q. And as you have testified here you could not place that face as to where you had seen it. Is that correct? A. Yes, sir.

Q. And you testified here when you read in the paper the incident of the man with the dog, then you connected the restaurant, the man and the dog? A. Yes, sir.

Q. Now how do you determine March the 1st, 1932? A. Then I went with the subway a couple of block down, I think to Intervale Avenue, I am not sure; I went up and I went to a friend of mine by the name of Mr. Leo Singer, insurance broker.

Q. Where? A. Twenty—I think 2385 or 2485 Ryer Avenue, Ryer Avenue.

Q. Ryer Avenue? A. Ryer Avenue.

Q. That's in the Bronx, too? A. Yes.

Q. How long did you stay with Mr. Singer? A. I was there about an hour long.

Q. And from there where did you go? A. I went home.

Q. And about what time did you arrive home? A. About eleven o'clock.

Q. Now when did you first hear of the Lindbergh baby kidnaping? A. That night on the radio.

Q. About what time? A. I can't—

Q. After you arrived home? A. Yes; later, after, because I took my supper after, when I arrived home.

Q. So that the visit to the Bronx, as you have described it to us, the incident of the dog and the man and hearing the Lindbergh kidnaping after you arrived home, establishes in your mind March the 1st, 1932, is that correct? A. Not only that, sir, but

exactly one week before the Lindbergh kidnaping I took mine boy, who was seven years old that time, with a serious, grave condition, kidney trouble, to the Bellevue Hospital.

Q. To where? A. To the Bellevue Hospital.

Q. Bellevue? A. Yes. He was there eight weeks long.

Q. And you recall it was a week after you took your boy to the hospital? A. Washington day, February 22nd, Washington Day.

Q. Washington's Birthday? A. Night, 9 o'clock in the night with a taxicab the doctor came out and said—

Mr. Wilentz: Oh, never mind what the doctor said now.

Q. All right. But those incidents and events stamp this in your mind as March 1st, 1932, and you are positively sure that Hauptmann, this defendant is the man you saw in the bakery on Dyer Avenue that time when you were there after half past eight that night? A. Yes, sir.

Q. You are not related to Hauptmann? A. No.

Q. You are not related to anybody in this case? A. No.

Q. You are coming forward, are you, to give this testimony in the interest of justice? A. Right.

Mr. Reilly: You may examine.

Mr. Wilentz: May we have an adjournment, a recess.

Mr. Reilly: Yes, sir, may we have five minutes recess?

The Court: We will take a five minute recess.

(At 11:16 a. m. a recess was taken.)

(11:29 A. M.)

(After a short recess the jury was polled and all jurors answered present.)

(The witness resumed the stand.)

Cross-Examination by Mr. Wilentz:

Q. So when you saw the dog, then you recognized the man; is that it? A. When I saw the dog I looked at the man.

Q. Yes. Then you recognized the man? A. Yes, because he talked to me, talked to that lady German.

Q. That is what brought it to your mind? A. Yes, sir.

Q. And that was in the year 1935? A. 1932.

Q. Yes. But you didn't see the story about the dog until 1935? A. No.

Q. But you knew back in 1934, when he was arrested? A. Yes.

Q. You recognized him then? A. I recognized his picture.

Q. Yes. A. Yes, sir.

Q. You knew that was the man? A. No, I didn't know that.

Q. Well you saw— A. I just know that I know somewhere that man.

Q. When you saw his picture in 1934? A. Yes, sir.

Q. That didn't bring to your mind the fact that

you had seen him in that restaurant on March the 1st? A. No.

Q. Right? A. (Shakes head.)

Q. Now you came to this country, you say, in 1922? A. '22.

Q. You are a citizen of this country, are you not? A. Yes, sir.

Q. And in 1922, you went to live where? A. Six—602 or 604 East 84th Street.

Q. That is in New York? A. Yes, sir.

Q. Downtown New York or central New York? A. Yorkville, 84th Street.

Q. Yorkville? A. Yes, sir.

Q. And you came to this country from Hungary? A. Yes, sir.

Q. You speak the German language of course. A. Much more better than I am speaking now.

Q. Yes. And you remember this man when he came into the restaurant speaking German. A. Yes.

Q. Now, after you came to this country in 1922, you told us where you worked for three weeks, in the Fisher Music Store. A. Yes, sir.

Q. What were you doing there? A. Assorting notes.

Q. An errand boy? A. No.

Q. What do you mean? A. In the basement, in the notes department. When somebody came in in the store and ordered the notes, then they called up downstairs and we have to pick out the notes.

Q. You worked there a few weeks? A. Three or four weeks.

Q. And then when you left there you went to work as a bus boy? A. Yes.

Q. How long did you work as a bus boy? A. About a year.

Q. Tell me first when you moved from your place in Yorkville. A. I was still there when I was busboy.

Q. How long did you live in Yorkville? A. 1924.

Q. And in 1924 you removed to where? A. I removed to Cedarhurst, Long Island, as a chauffeur to Mr. Rudolph Spitzer, with my wife. In the meantime I brought out my wife—

Q. Cedarhurst, Long Island? A. Cedarhurst, Long Island.

Q. And the man's name is Rudolph Spitzer? A. Rudolph Spitzer.

Q. How long did you work and live there? A. Seven months long.

Q. Then where did you move? A. Then I moved back to New York because my wife was expecting—

Q. Where did you move, that is what I want. A. 60—I think 606 or 608 West 189th Street; I can't recall. That was my first apartment.

Q. All right. How long did you live there? A. About a year longer.

Q. So in 1924 you moved to Cedarhurst, Long Island, and you lived there seven months? A. Yes, sir.

Q. That would take you to about the end of 1924? A. Yes, sir.

Q. And for the year 1925 approximately you lived at 608 West 189th Street? A. I beg your pardon, sir; it must have been 1925 early, because mein boy was born March 11, 1925 and we was living there two or, three weeks when I took my wife to the Jewish Memorial Hospital.

Q. Yes, so that in March,—some time in February or March— A. Yes, sir.

Q. —1925, you moved into 608 West 189th Street? A. Right.

Q. And you lived there for about a year until March, '26? A. Yes, sir.

Q. Until March, 1926? A. Yes, about.

Q. About. Now, in March, 1926, where did you

move to? A. I moved to mein studio because I send my wife home to Europe.

Q. Where did you move to? A. 63rd Street and Broad—and 8th Avenue, corner, on the third floor.

Q. You had a studio there? A. Studio, yes.

Q. And you lived there? A. Yes, sir.

Q. How long? A. In that period my wife was in Europe.

Q. Yes. How long did you live there? A. I think four months.

Q. Then where did you go? A. Then when I expected my wife back from Europe I took out apartment on Sherwood Terrace, I don't know the number.

Q. Sherwood Terrace? A. Sherwood Terrace, on 200—about 238th Street, one block from the subway station.

Q. One block from the subway station. How long did you live there? A. About a half a year.

Q. That would be from about July, 1926, until about some time early in 1927, you lived there? A. Yes, sir.

Q. At 63rd and 8th Avenue—your studio was there from March, 1926, for about four months you said. A. It was about four months in summer time. It was summer time.

Q. Yes. That would be April, May, June. A. No. Pardon me. Mine wife went home in May.

Q. May? A. May—May, June, July, August.

Q. Well, then you lived there until August, about? A. Yes, sir.

Q. And in August you moved to the Sherwood Terrace Apartments? A. Yes.

Q. Now, in August, how long did you stay at those apartments? A. About half a year.

Q. That would take you into early 1927, say about February? A. '26.

Q. Well, no, in 1926 you moved to your studio, in March. A. No, '25, when mine wife went——No, '26, right, sir, you are right.

Q. All right. So that you remained at the Sherwood Terrace until about February, 1927? A. Yes.

Q. Something like that? A. Yes, sir.

Q. Then where did you move? A. I moved to Astoria, Long Island.

Q. Now, how long did you remain in Astoria, Long Island? A. Till 1929.

Q. Where did you live in Astoria, Long Island? A. 24-31 24th Street.

Q. And then where did you move to? A. Then I moved out to Yonkers.

Q. Then to Yonkers. A. Yes, sir.

Q. Yes. Whereabouts in Yonkers? A. I think 70 Oakwood Street, Sherwood Park, Sherwood Park.

Q. Sherwood Park? A. Right by the Mount Vernon Station.

Q. 70 Oak Street? A. I think so, yes, sir.

Q. 70 Oak Street? A. Oakwood, Oakwood Street; Oakwood Street.

Q. Oakwood Street? A. Oakwood Street.

Q. That's near Sherwood Park? A. In Sherwood Park that's in Sherwood Park.

Q. In Sherwood Park in Yonkers? A. Yes, sir.

Q. How long did you live there? A. I live there to 1930, March or April, something like that.

Q. March or April, 1930. And then you moved again? A. I moved again.

Q. Where did you move to then? A. 304 Lexington Avenue.

Q. How long did you live at Lexington Avenue? A. I live there that same year—No, I live there next year up to—

Q. Well, you moved there in March or April, 1930, and lived there from March or April, 1930,

until when? A. Next year, March or April, or something like that.

Q. Until March or April? A. Yes, sir.

Q. 1931? A. Yes, sir.

Q. Then where did you move to? A. Then I moved out to Island Park, Long Beach.

Q. Island Park? A. Long Beach.

Q. Island Park, Long Beach. How long did you live there? A. That summer.

Q. For the summer of 1931? A. Yes, sir.

Q. Until 1932? A. 1931.

Q. Well you moved out when, something like July or August? A. No, in March or April.

Q. How many months— A. For the summer time I moved out, I made a restaurant there.

Q. How long did you live at Island Park? A. Four months, five months.

Q. You moved there, you got there about March or April, 1931? A. Yes, sir.

Q. And you stayed there about four months? A. It was four or five months, the summer time.

Q. All right. Something like August or September? A. Yes, sir.

Q. Then where did you go? A. Then I moved in 309 East 78th Street.

Q. And you lived there ever since? A. No. No, one year longer.

Q. How long did you live there, one year? A. One year.

Q. That is until about August or September, 1932? A. Yes, sir.

Q. Then where did you move to? A. The same address I am living now, 243 East 78th Street.

Q. 243 East 78th Street? A. Half a block away.

Q. While you were living in Yorkville from 1923 to 1924, you told us briefly what some of your employment was? A. Yes, sir.

Q. You worked first in a music store and then you worked for a while as a bus-boy, and then where did you work? A. After that I worked with a friend of mine in Mount Kisco, summertime for two months.

Q. What was the name of your friend in Mount Kisco? A. He wasn't living in Mount Kisco; he was living in New York.

Q. He was who? A. Mr. Antoine Hetterer.

Q. Where does he live now? A. He lives somewhere on West End Avenue. He is superintendent.

Q. And then after that? A. After that, that is the time when my wife came out and then—

Q. After that you were living in Cedarhurst, Long Island? A. No, no, at that time I was living still—

Q. In Yorkville? A. In Yorkville, on 84th Street.

Q. And where else did you work? A. What?

Q. While you were living in Yorkville, where else did you live? A. Then I worked on 49th Street, I don't know the number, for a man by the name of Armand Vecsey.

Q. Vecsey? A. Vecsey, V-e-c-s-e-y.

Q. Yes. You just proceed and tell us where you worked from that time right on up to date, please. A. There I was working by him as wiring maker, repairing wirings, and after that I was working about four or five months. After that we moved out to Cedarhurst, as a chauffeur. From there I came in to 189th Street, then my boy was born. In that period when my boy was born about, for five, six weeks, I was working for a Mr. Haderer in his home as batik painter, there I learned this trade.

Q. What kind of a painter? A. Batik painter.

Q. Batik? A. Batik painter.

Q. Batik painter. Is that the kind of painting you have on your hand? A. No, sir.

Q. What kind of painting is that, a different kind? A. Yes, sir.

Q. What do you call that? A. Tattooing.

Q. Sir? A. Tattooing, tattooing in English.

Q. Tattooing? A. Tattooing in English.

Q. Both of them, on both hands? A. No, sir, on one.

Q. Only on the one? A. Yes, sir.

Q. Do you have them on your body? A. No.

Q. Always carry them? A. Yes, sir, I have it in my citizen papers.

Q. Sir? A. I have it in my citizen papers.

Q. Yes. You always have that, too? A. Yes, I have it from when I was seventeen years old.

Q. I see. Well, all right. That is a different type of artistic work? A. No, this is not artistic work.

Q. This is not artistic work? A. No.

Q. All right. How long did you work at that?

A. A couple of weeks only, about five or six weeks by Mr. Haderer.

Q. All right. Continue on, please. A. Then I started to work for mineself in the same silk painting in mine home. I was working a couple of weeks long and then I took out a small studio. A friend of mine had a studio so I made arrangement with him, I will use it daytime, because we had to make big frames.

Q. Yes, sir. A. And night times he. So I paid half rent.

Q. That was the one at 63rd and Eighth? A. No, that was on—that studio was on Sixth, between 65th and 66th Street in the Loew Arcade Building.

Q. All right, continue, please. A. Then I was working there about a couple of months long and that place was too small. Then I took out for mineself on 63rd Street that studio.

Q. Yes, sir. As a silk painter artist? A. Yes, sir, that time I had—

Q. That studio is at 63rd Street and 8th Avenue? A. Yes, sir.

Q. Is there such a place as 63rd Street and 8th Avenue? A. Yes, sir.

Q. You are quite sure about it? A. First house from 8th Avenue on 63rd Street, to the Hudson River.

Q. I don't know anything about it. There is a place there anyway, 63rd Street and 8th Avenue? A. Yes, sir.

Q. 63rd Street intersects 8th Avenue? A. 63rd where the elevator crosses Broadway.

Q. Well, is it Eighth Avenue or is it Ninth Avenue? A. I don't know; Eighth Avenue or Ninth.

Q. You don't know? A. Eighth Avenue, I think Eighth Avenue, yes, sir.

Q. Then at any rate, you are not sure now? A. I don't know.

Q. How long were you there? Four or five months, were you not? A. No, almost a year.

Q. Almost a year? A. Almost a year.

Q. You used to get mail there, didn't you? A. Please?

Q. You got your mail there, didn't you? A. Yes, sir; sure.

Q. You lived there? A. Yes, sir.

Q. You slept there? A. Yes, sir.

Q. But you are not sure whether it is Eighth Avenue or Ninth Avenue? A. I can't tell you that, sir.

Q. You can't tell me? A. No, I can't tell you.

Q. Well— A. The elevated crosses Broadway right there, in front of 63rd Street.

Q. Yes. All right. Then you worked there at that studio as a silk painter? A. Painter.

Q. Artist? A. Yes, sir.

Q. All right. Tell us then what you did after that. A. When I moved away from there?

Q. Yes—not when you moved away from there, but I want your employment now. You gave me all your removals. I want your employment now. A. Oh, all right. I gave up that place and then I went in partnership in the same business with Mr. Eli Rosenberg.

Q. Eli Rosenberg? A. And we took out a place on 23rd Street between 6th and 7th Avenue.

Q. Where does Mr. Eli Rosenberg live now? A. He lives somewhere in The Bronx.

Q. Is he a silk painter artist? A. Not now any more.

Q. Was he then? A. Yes.

Q. What is his business now? A. He is, as far as I know, insurance broker.

Q. Insurance broker. All right, sir. Is that the man you went up to visit, you were going to visit or something later on? A. No, no; no, no.

Q. All right; go ahead. A. Then that business split a couple months later on and I then went back to the Loew Arcade Building, where I took out a little small place with my wife's cousin; we worked together.

Q. What is his name? A. Nichols.

Q. Nichols? A. Mr. Nichols.

Q. What is your wife's maiden name? A. Isabelle Bellahorsky.

Q. Isabelle Bellahorsky? A. Yes.

Q. Does she come from Hungary too? A. Yes, sir.

Q. You went in business with her cousin? A. Yes, sir.

Q. What business? A. Same business, silk painting. He was the salesman, I was working inside.

Q. How long did that last? A. A couple of months longer.

Q. All right. Tell us what you did next? A. Then the business went better and we took out a place on 23rd Street and 7th Avenue. I think 76 West 23rd Street.

Q. Yes, sir? A. There I stayed about a year.

Q. Yes, sir, the same business? A. Same business.

Q. Then what did you do after that? A. Then I went—I split with Mr. Nichols and I went in partnership with the other man who had more money to make bigger the business.

Q. What was his business? A. His name was Hyman Hendler.

Q. How long did you and Mr. Hendler stay in business together? A. About half a year, not in that same business, but moved one block away I think 20 West 22nd Street.

Q. Where does Mr. Hendler live now? A. I don't know where he lives, but he has a ribbon business on 39th Street or 38th Street, between 6th and 5th Avenues.

Q. When you went in the same business with him —it was the same business? A. No. Silk painting. He sold ribbons on the 11th floor and I was painting in the other half.

Q. Your business was still silk painter artist? A. Yes, sir.

Q. After you and Mr. Hyman somebody got through with your business, what did you do next? A. Then we split the partnership, it was 1929.

Q. Yes, sir? A. After that I worked again in mine home because the business went broke.

Q. Yes, sir? How long did you work again in your home? No partnership then? A. No. Then I was working in my home in Astoria.

Q. As a silk painter? A. As a silk painter.

Q. In Astoria, Long Island? A. Yes.

Q. How long did you work alone in Astoria, Long Island, as a silk painter? A. About a year longer.

Q. Then what did you do? A. Then I went back to Europe for six weeks on a business trip. My brother died.

Q. You went back to Europe? A. My brother went back from here to Europe, and he died in Europe and I took up his insurance here, three thousand.

Q. Then you came back? A. Yes, then I went with that money to Europe to buy certain things and came back, six or seven weeks later, 1930.

Q. You went with that money to buy certain things? A. Yes, sir.

Q. What do you mean by that? A. I went to Europe and I bought real old Hungarian furniture and pottery to make here a Hungarian restaurant.

Q. Yes. Was your brother's family here at the time? A. No.

Q. They were in Europe? A. Europe, still today, his wife and one boy.

Q. And you went over with the insurance money to buy— A. Yes, sir.

Q. Was it your money or was the money— A. My money.

Q. What? A. I insured him.

Q. Oh, I see. A. And the money I get.

Q. You insured— A. The policy was in my name.

Q. You took the insurance out on your brother's life? A. No, he took out.

Q. And made you the beneficiary? A. Yes, sir.

Q. And you took the money? A. Yes, sir.

Q. All right. Then you went over there and bought some things and you came back? A. Yes, sir.

Q. Six months that was? A. Six weeks.

Q. Six weeks? A. Very short trip.

Q. All right. And then what did you do when you came back? A. Then I opened a restaurant on 304 Lexington Avenue.

Q. A restaurant? A. A little small restaurant, yes, sir.

Q. What about the silk painter business? A. Silk painters went busted.

Q. So you stopped that business and you went into the restaurant business? A. Yes, sir.

Q. Where did you have that restaurant? A. 304 Lexington Avenue.

Q. New York? A. Yes, sir.

Q. And how long did you have the restaurant? A. A good couple of months.

Q. And then after a couple of months you gave up the restaurant? A. I gave up that restaurant and I went to Long Beach and I opened there this Hungarian restaurant with that furniture what I brought out.

Q. Yes. How long did you have the restaurant in Long Beach? A. I think three months for the Summer time.

Q. And then where did you go? A. Then I came back to New York.

Q. Then what did you do? A. Then I was working whatever I get. I had many friends and many people I know. I did silk painting work. I did electric work. I moved people. I fixed up pictures for people. I did carpenter work. I did painter work.

Q. Did you ever do carpenter work with Mr. Hauptmann, the defendant? A. No, sir.

Q. Did you ever do any painting in any house in which Mr. Hauptmann, the defendant, worked or lived? A. No, sir; only for private people.

Q. I see. All right. You did all those odd things that you talk about? A. Yes, sir.

Q. Odd jobs, rather? A. Yes, sir.

Q. And how long did that last? A. (No answer.)

Q. How long did you continue to do those odd jobs? A. Now in '31.

Q. Whenever it was that you did carpentry and painting and moving. A. I am still doing now today whatever I get work.

Q. You are still. That is what you did from then until now, and that is what you are still doing? A. But between this time—

Q. Yes. A. —1932, I had, I opened again a studio on 22nd Street.

Q. Yes, sir. A. I had that about a half year there. Then I moved on 7—on the same street, 22nd Street, but west side, 146, I think. I took out a place for—smaller place, the third floor, and I was there working till about Winter time '32, or Springtime '33. Don't remember when I gave up entirely; either end of '32 or beginning of '33.

Q. Now you have testified this morning to this statement; I want to read it to you. A. Yes, sir.

Q. See if it is correct: "Not only that, sir, but exactly one week before the Lindbergh kidnaping, I took my boy who was seven years old that time, with a serious, grave condition"— A. Yes, sir.

Q. —"kidney trouble"— A. Yes, sir.

Q. —"to Bellevue Hospital." A. Yes, sir.

Q. Is that correct? A. Yes, sir.

Q. You are sure about that? A. Yes, sir.

Q. No question about it? A. No question about it, no question; it was a very serious thing to me.

Q. I know that. I don't mean the serious thing about your boy's serious illness; I mean the whole statement. A. Yes, sir.

Q. That's correct? A. Yes, sir.

Q. There is no mistake about it? A. No mistake about it.

Q. And you are willing to stand on that statement? A. Yes, sir.

Q. What was the name of the doctor? A. The head doctor for that case was Dr. Berlin Rood—R-o-o-d—a little short man.

Q. Now you are a man who, because of circumstances and because of incidents in your life and the life of your family, have had the dates fairly well placed in your mind? A. Yes, sir.

Q. And of course you come here in the interest of justice, as you told Mr. Reilly? A. Yes, sir.

Q. And your testimony, I take it, you considered very carefully before you came here? A. Yes, sir.

Q. There is one thing sure that you know when your boy went to the hospital, and you know when your wife went to Europe, and those things about your immediate family? A. Yes, sir.

Q. When did your boy go to the hospital? A. Washington Day, 1932.

Q. February? A. February.

Q. The 22nd, 1932? A. I think February 22nd, 1932.

Q. Washington's Birthday? A. Yes, sir; night, one o'clock. I called out a doctor, Dr. Breuner that night twelve o'clock and he said right away take—put in a blanket and take in the hospital. So my wife—I called a taxi, my wife put in the kid and took at one o'clock in the night to the hospital.

Q. So that you couldn't be mistaken about that, could you? A. No, no, sir.

Q. That is positive? A. Absolutely.

Q. You are sure it was in 1932? A. I am sure, sir.

Q. And you are sure it was on Washington's Birthday? A. Yes, sir.

Q. Whatever the date of Washington's Birthday, it was Washington's Birthday? A. Yes, sir.

Q. Do you happen to remember the day of the week it was? A. I don't; no, sir. I can't tell you exactly; my wife could tell; I couldn't.

Q. Well, at any rate, it was Washington's Birthday? A. That is what my date—

Q. February 22nd, to your best recollection? A. Yes, sir.

Q. That is when you took your child to Bellevue Hospital? A. My wife took him.

Q. Your wife took him? A. Yes, sir; I stayed home with the little girl.

Q. Now, let me read the answer again, the statement again, and see—Mr. Reilly was asking you about your visit to The Bronx? A. Yes, sir.

Q. And he said to you or asked you, "So that the visit to The Bronx, as you have described it to us, the incident of the dog and the man, and hearing the Lindbergh kidnaping, after you arrived home, establishes in your mind March 1st, 1932; is that correct?" That was the question. And your answer was this: "Not only that, sir, but exactly one week before the Lindbergh kidnaping I took mein boy who was seven years old that time, with a serious, grave condition, kidney trouble, to the Bellevue Hospital." A. Yes.

Q. You remember the question? A. Yes.

Q. Do you remember the answer? A. Yes.

Q. Do you remember the answer, "Exactly one week before the Lindbergh kidnaping"? A. Yes, sir.

Q. You took your boy to this hospital? A. My wife took him.

Q. You took the boy to the hospital on Washington's Birthday? A. I think so, but my wife says it was Washington's Birthday.

Q. Well, now, you said Washington's Birthday— A. Yes, sir.

Q. —at least 14 times? A. Yes, sir.

Q. Was it Washington's Birthday? A. Yes, sir.

Q. All right. Exactly one week before the kidnaping you took this boy to the hospital? A. Yes, sir.

Q. That is the 22nd? A. I think so.

Q. Now, one week exactly—those are your words —one week exactly from the 22nd is the 29th of February, isn't it? A. I don't know, sir.

Q. Well, take a look at the calendar then. You see Monday, February the 22nd. A. Yes.

Q. Do you see the next Monday? The 29th? A. Yes, sir.

Q. So that you said exactly one week before that night the— A. Yes.

Q. —the night that you saw Hauptmann you took your boy to the hospital and that is the reason also that you remember it.

Mr. Fisher: Now may it please your Honor, the Attorney General is saying the 22nd. The man's testimony has been on three separate occasions that it was about one o'clock in the morning—

The Witness: Morning.

Mr. Fisher: —which would be the 23rd day of February.

Mr. Wilentz: My recollection is that that is not the fact.

Mr. Fisher: Let's look up the testimony and see.

The Court: I think the cross-examination is legitimate. Whether you desire to have explanations made is a matter for re-direct, I think.

Mr. Fisher: My objection was that he was appropriating something that is not a fact in evidence, sir.

The Court: Perhaps we had better have the record read, if there is any question about that.

Mr. Wilentz: Whatever day it was, whatever hour it was, it is his testimony, if your Honor please, not mine; he says Washington's Birthday.

The Court: He has said so. Do you dispute that?

Mr. Fisher: He said at the same time it was one o'clock in the morning. That would be the 23rd.

Mr. Wilentz: That statement and argument I object to, if your Honor please, because I think it is suggestive to the witness.

Mr. Fisher: I should prefer to refer to the record. There will be no suggestion in the record.

Mr. Wilentz: I take it, if your Honor please, that I have a right to cross-examine him.

The Court: I think you have, Mr. Attorney General and you may proceed.

By Mr. Wilentz:

Q. A week before, exactly a week before— A. Yes, sir.

Q. Exactly a week before— A. Yes.

Q. —you saw Hauptmann in that restaurant, you took your boy to the hospital? A. Yes, sir.

Q. Now let's see. What time did you leave the restaurant that night? A. When I finished my coffee I went out. It couldn't be more than five or ten minutes, but I don't know.

Q. About half past eight? A. Yes, sir.

Q. You got in there at 15 after? A. Yes, sir

Q. Did you look at a clock going out? A. Yes, sir, on mine watch.

Q. Going out? A. No, when I went in, before I went in, on the street.

Q. You looked at your watch? A. Yes, sir.

Q. Your watch? A. Yes, sir, the same watch what I have here.

Q. And you saw it was 8:15? A. Yes, sir, quarter after eight.

Q. That is the watch by which you knew the time? A. Yes, sir.

Q. How many people were in the restaurant? A. There was people in it, sir, but I don't know how many.

Q. Four or five or six or seven? A. No, no.

Q. One or two? A. A couple was there, just two or three, something like that.

Q. Those people you don't know? A. No.

Q. You never saw them again? A. No, sir.

Q. You took a bus to Dyer Avenue, didn't you? A. Yes, sir. I didn't know I took it to Dyer Avenue.

Q. You got to Dyer Avenue? A. When I went out from the bus then I talked to the man, I was asking him where I am and the one I was asking where I can get to the subway station, he told me to go straight here one block, turn into 233rd Street —

Q. You were lost that night? A. Yes, sir.

Q. How long were you lost? A. A couple of minutes long until I see that man.

Q. A couple of minutes. Well, you got on the wrong subway, didn't you? A. Yes, sir.

Q. And rode on the wrong subway for how long? A. To 238th Street on the West Side.

Q. How long did that take? A. From a friend of mine's place, it took about 25 or 30 minutes, about half an hour.

Q. When you got off at Dyer Avenue, you got off a bus, didn't you? A. Some kind of a bus.

Q. Yes. A. Yes, sir.

Q. What I want to know is, you rode in a bus to Dyer Avenue; you didn't know at the time where you were going, but when you got there it was Dyer Avenue? A. No, sir. I didn't know that it was Dyer Avenue. When that man told me where I should go to the subway station, and when I came out from that restaurant and on the corner, I looked, 233rd Street, there I saw that Dyer Avenue, but I didn't remember on that—

Q. All right. A. —just now, because these newspaper article refresh my recollection.

Q. The newspaper article refreshed your recollection? A. Yes, sir.

Q. As to the bus? A. Not to the bus; to Dyer Avenue.

Q. Start off on your trip with me again, please, on the night of March the 1st. A. Yes, sir.

Q. Just the trains you took. A. Yes, sir.

Q. And the buses, and everything else. A. Yes.

Q. Where did you start and what time? A. Around seven o'clock from Mr. Le Martyre's studio, 65th Street and Broadway corner.

Q. Seven o'clock? A. Around seven o'clock.

Q. And you got on a subway there? A. Yes, sir; 66th Street station.

Q. And your purpose in getting on a subway was to go to The Bronx? A. Bronx.

Q. You were going up to where? A. To 72nd Street.

Q. To deliver two pints of whiskey? A. Yes, sir.

Q. What kind of whisky? A. My whisky.

Q. What kind? A. Rum; rum.

Q. Where did you buy it? A. I made it myself.

Q. You made it yourself? A. Yes, sir.

Q. Did you manufacture rum at the time? A. No. No, I bought alcohol in Second Avenue or First Avenue, and I put in those flavor.

Q. What flavors did you put in in the manufacture of rum? A. Rum flavor.

Q. Just alcohol and rum flavor? A. Yes, that's all.

Q. How long did it take you to manufacture the rum? A. I made it in ten minutes.

Q. Easy? A. Sure.

Q. And you bundled it up into a couple of packages. A. No couple of packages, one package, two bottles.

Q. One package, two bottles? A. Pint bottles.

Q. Pint bottles? A. Pint bottles.

Q. Where did you get the bottles? A. Same place where I got the apple.

Q. Did you buy the pint whiskey bottles? A. Yes.

Q. How many bottles did you buy? A. I bought many.

Q. Did you make rum many times? A. Sure.

Q. You knew, of course, that was against the law? A. That was against the law, why—

Q. Sir? A. I made years and years long for myself rum.

Q. For yourself and for your other painter artists? A. No, for a couple of friends of mine, I gave many friends of mine, I gave—

Q. Many friends you gave? A. Yes.

Q. Just as a charitable act? A. No, no, no. They paid for it.

Q. They paid for it? A. Yes, sir.

Q. I see. A. Yes, sir.

Q. How much did you sell the rum for a pint? A. Dollar and a quarter.

Q. Dollar and a quarter a pint? A. Yes, sir.

Q. How many years were you doing that? A. About a year.

Q. That was a business you didn't tell before. A. No, that wasn't any business.

Q. You didn't tell us before. A. No, sir.

Q. That was just to do your friends a favor? A. No, I need it for myself.

Q. Yes, but you sold it for a dollar and a quarter a pint. A. Yes, because a friend of mine asked for it.

Q. Did you charge—When you take a trip up to The Bronx would you charge them the carfare too? A. No, sir.

Q. Or would you— A. Never in my life.

Q. You wouldn't do that? A. No, sir; nope, I never did.

Q. The dollar and a quarter included the carfare, a dollar and a quarter a pint included the carfare and delivery? A. That is what they paid for a pint of rum, dollar and a quarter.

Q. And that night particularly, the night of

March the 1st, 1932, you had $2.50 worth of rum which you were delivering? A. Yes, sir.

Q. How much carfare would it cost you to deliver it? A. If—ten cents; five cents there and five cents back.

Q. Well, you spent more than five or ten cents, didn't you? A. I spent more, yes, sure.

Q. Did you deliver it? A. Yes, sir.

Q. What time? A. It was around nine o'clock.

Q. Where did you deliver the rum? A. To Mr. Leo Singer.

Q. Where? A. On his home.

Q. Did he pay you $2.50? A. Yes, sir.

Q. Who was at his home when you got there? A. His wife.

Q. Where did you say that was? A. That was, I can't remember. Twenty—2385 or 2585 Ryer Avenue in The Bronx.

Q. Where does he live now, do you know? A. The same place.

Q. Ryer Avenue in The Bronx? A. Yes, sir.

Q. Was it good rum? A. Yes, sir.

Q. How do you spell Snyder? A. Snyder?

Q. Yes. A. S-n-y-d-e-r.

Q. Not Singer? A. No, Singer is S-i-n-g-e-r.

Q. Yes. The name of the man you delivered the rum to that night was Snyder? A. Leo Singer.

Q. Louis Singer? A. Leo. L-e-o.

Q. Leo Singer. A. Leo Singer.

Q. Yes. At any rate, you delivered it at about nine o'clock. A. About nine o'clock, sir.

Q. How far is Mr. Singer's home from the restaurant? A. Oh, that was far, because I came back, I came back about ten, fifteen minutes with the subway from 233rd Street back.

Q. You had to take the subway back? A. Yes.

Q. From the restaurant? A. Not from the restaurant, from 233rd Street.

Q. Well, you walked there, didn't you? A. Yes, I walked from that restaurant. I walked, yes, sir.

Q. How many blocks? A. As far as I can say, it was about 20 blocks, if not more, good long trip.

Q. 20 blocks? A. 10 or maybe more than—15 minutes; 10 or 15 minutes walk.

Q. And you walked from there? And you went there on a subway? A. From 233rd Street I took the subway.

Q. And you were on the subway how long? A. About 10, 15 minutes again.

Q. Ten or fifteen minutes? A. Yes, sir.

Q. And then when you got off the subway how much of a walk was it to Mr. Singer's home? A. That was a good couple blocks too.

Q. How long did that take you? A. I can't tell you, sir. I crossed—

Q. Where did you get off the subway going to Singer's home? A. I can't remember, but I think Intervale Avenue.

Q. Intervale Avenue? A. Or somewhere there.

Q. How long did it take you from Intervale Avenue to Singer's home? A. About ten minutes, I guess.

Q. How long did it take you to walk the ten or twenty blocks? A. As far as—

Q. It is a long walk, you said? A. It is a long walk.

Q. How long did it take you? A. Fifteen minutes or twenty minutes, something like that.

Q. 15 or 20 minutes? A. Yes, sir.

Q. Did you sample that rum that night? A. What did I.

Q. Did you take a sample, did you take a drink of that rum that night? A. From that rum.

Q. To see if it was good? A. From that rum now?

Q. Before you left. A. From my rum?

Q. Yes. A. That night if I drunk?

Q. Yes. A. I don't think so.

Q. You don't know whether you had any rum that night or not? A. What, please?

Q. Do you remember whether or not you took a drink of your home made rum before you left on your subway trip in which you got lost that night? A. No, no, never drink in the evening rum.

Q. When do you drink rum, in the morning? A. In the morning.

Q. What do you drink in the evening? A. Sometime wine, sometime beer.

Q. Do you make your own wine, too? A. No.

Q. Do you sell wine, too? A. No; never in my life.

Q. I see. What time did you arrive at Singer's home? A. It was around nine o'clock, maybe a little earlier.

Q. A little earlier? A. Maybe.

Q. You didn't look at the watch for that, did you? A. No, sir.

Q. You looked at the watch when you went in, didn't you, into the restaurant? A. Yes, sir.

Q. You didn't look at the watch when you went out? A. No, no.

Q. Now you are sure that the bus that you took went to Dyer Avenue? A. I don't know if it went to Dyer Avenue.

Q. Well, you got off at Dyer Avenue, didn't you? A. Very near, a couple, maybe 50 step from that place where I talked to that man.

Q. Where did you get the bus? A. I can't tell you, sir; somewhere on the West Side.

Q. "You got the bus?" "I didn't." Will you tell us where it was? A. Just a second, sir. I took a street car from 238th Street and I went with the

street car a couple of minutes long, and on the street car somebody told me when I ask him how to get to East Bronx, he told me, "You have to take a bus," and then he told me I should go down and wait for a bus, and at that place I took a bus, and with that bus I went over.

A. (Continuing.) With that bus I went over there.

Q. How long were you at the trolley car? A. Couple of minutes, a couple of block we went only.

Q. A couple of what? A. A couple of blocks.

Q. Just a couple of minutes? A. Just a couple of minutes.

Q. Now, when you got off the trolley car, what did you do? A. Right there I think a half a block or one block I walked and I took a bus, I catched the bus.

Q. You walked a block? A. Yes, sir.

Q. I suppose that took a minute or so. A. Somethink like.

Q. You took a bus. How long were you on the bus? A. I can't tell you sir, because on—that is how I lose myself because I read the paper on the bus, so I can't tell you how long I was on the bus.

Q. Don't you know whether you traveled a long time? A. Pretty long.

Q. Half hour? A. Something like that.

Q. Maybe an hour? A. No, no; no, sir.

Q. Three-quarters of an hour? A. I don't know, sir, I don't think so, but about.

Q. But you are sure it was at least a half hour? A. I think it was a half hour.

Q. Yes. Now before you got on the street car you came up in a subway, didn't you? A. Yes, sir.

Q. How long did it take you on that? A. From 66th Street, 20, 25, 30 minutes.

Q. 20, 25, 30 minutes? A. Because on 72nd Street I changed for the express.

Q. Did you look at the watch? A. No.

Q. Did you look at the watch when you left your home? A. I left my home before I went to that friend of mine, Mr. LeMartyre.

Q. Did you look at the watch before you left, when you were leaving? A. No.

Q. What time do you say it was? A. About five, six—between five and six o'clock.

Q. Between five and six o'clock? A. Yes.

Q. You knew Mr. Singer, didn't you? A. Yes, sir.

Q. You knew him well? A. Very well.

Q. This wasn't the first time your sold him rum, was it? A. Twice I sold him rum in the Bronx. Twice I went up to his place with rum.

Q. Twice you went up to his place? A. Yes, sir.

Q. This was the third time? A. No, with this, the second time or first time, I don't know.

Q. Did you have any other business with Mr. Singer? A. Never in my life.

Q. How did you happen to meet Mr. Singer and engage in the sale of rum to him? A. I met Mr. Singer in 1930, 1930 I think, when I had the restaurant on Lexington Avenue, in that place somebody introduced him to me.

Q. Were you selling rum in your restaurant? A. No, sir, no, sir.

Q. How did you happen to sell him rum? A. Because he knowed me and knowed I had rum. He was in my home. He made life insurance for me. He knowed that I have rum.

Q. You sold him rum twice, this being the second time? A. Second or first time, I can't remember, sir.

Q. You have told us two times? A. Two times, yes, sir.

Q. Is that correct? A. Yes, sir.

Q. All right. Now the first time you went up to his home in the Bronx, did you get lost? A. No.

Q. You knew how to get up there, didn't you? A. Yes, sir, from the East Side where I live.

Q. How did you go up there the first time? A. I don't know. I can't remember which one was the first time, this time or the other time, but they were a couple of weeks apart, I was up twice; once this time and once either before or after that.

Q. How did you go the other time? A. The other time I went with the Lexington Avenue subway I think to the Yankee Stadium, and from there I walked a good ten or fifteen minutes to his home, I think from the Yankee Stadium.

Q. You had lived in the Bronx, hadn't you? A. Never in my life.

Q. Well, you remember Mr. Reilly talking to you about it before? Didn't he suggest to you that a couple of the addresses you gave were in the Bronx, your residences?

Mr. Wilentz: Is that correct, Mr. Reilly? A. A. I was never living in the Bronx.

Mr. Reilly: I beg pardon?

Mr. Wilentz: Didn't you suggest some of the addresses he gave, that some of them were in the Bronx?

Mr. Reilly: I asked him the question if he lived in the Bronx, on the West Side of the Bronx, he said yes, the Van Cortlandt Park side.

Q. Maybe you don't understand it, but as I understand it from Mr. Reilly, that address near Van Cort-

landt Park is in the Bronx; as I understand it. A. No, they call it the West Side.

Mr. Reilly: That was my question. The West Side, as I understand it; the Bronx is the East Side.

The Witness: Yes.

Q. How far was it from the Yankee Stadium in distance to Singer's home? A. Very far, sir.

Q. Well, how far would you say? A. Fifteen or twenty minutes, something like that.

Q. A mile, two miles? A. I can't tell you, sir.

Q. Well, you walked. A. Yes, but I don't know how long it takes.

Q. How long would it take you to walk a mile? A. I have no idea, not the slightest.

Q. About fifteen minutes? A. I have not the slightest idea, sir.

Q. Well, now, please don't tell me you haven't the slightest idea because you walked it, didn't you? A. Yes.

Q. Yes. All right. A. But I don't know in mileage.

Q. Well, would you say it was three miles? A. I can't tell you, sir.

Q. Would you say it was four miles? A. I don't know.

Q. You have no notion of how long it would take you to walk four miles? A. How long I don't know. How long I walked from there to Mr. Singer I know, about.

Q. About fifteen minutes? A. It was fifteen or twenty minutes, yes, sir.

Q. Are you a fast walker? Are you? A. I don't know. I just go like other people goes.

Q. Do you know where Woodlawn Cemetery is? A. Yes, sir.

Q. When was the next time you delivered rum, and who did you deliver it to? A. To Mr. Singer.

Q. The next time, I mean. After you delivered it to Singer, when did you deliver rum again? A. I can't tell you; a couple of weeks, either before this or after, I don't know. And another thing I know—

Q. Well, on March the 2nd, did you sell anybody any rum? A. No, sir.

Q. March the 3rd? A. No, sir.

Q. March the 4th? A. No, sir.

Q. March the 5th? A. No.

Q. When did you sell and deliver rum next after March the 1st? A. I can't tell you, sir.

Q. When did you sell and deliver rum before you delivered it to Singer? The time before that to anybody. A. I can't tell you, sir.

Q. When did you deliver rum before March the 1st, 1932, to anybody? A. I can't tell you that either, sir.

Q. When did you deliver rum after March the 1st to anybody? A. That I can't tell you, either.

Q. You don't remember anybody you delivered rum to before or after? A. I delivered rum, but I don't know when.

Q. You don't know when? A. No.

Q. You don't remember any other date? A. No, sir.

Q. What time did you get home? A. It was very late, after, around 11 o'clock, I come, I came home.

Q. Sir? A. Around 11 o'clock.

Q. 11 o'clock at night? A. Around 11 o'clock.

Q. You left either five or six? A. Yes, sir; after five I left.

Q. What time ordinarily— I withdraw that. Let me see if this is your testimony, by Mr. Reilly, "And you recall it was a week after you took your

boy to the hospital?" "Washington Day, February 22nd, Washington Day." "Washington's Birthday?" "Night. Nine o'clock in the night with a taxicab the doctor came out." Is that correct? A. No, sir; no, sir; almost twelve o'clock when Mr. Brenner came out, my other doctor, who was my wife's doctor.

Q. Almost twelve? A. Almost 12 o'clock, around 12 o'clock.

Q. Almost twelve? A. Yes, sir; late in the night.

Q. Yes, almost twelve? A. Yes, I remember, because the kid—

Q. All right; but almost twelve is correct then? A. Yes, sir.

Q. And the stenographers here, the notes that they take, if they had nine o'clock, that is not correct? A. No, sir; I never say this.

Q. No, sir; you never say that? A. Nine o'clock.

Q. All right, now. In February and March, 1932, you have told us what your business was. I just forget for the moment what it was. A. 1932?

Q. Yes. On March 1st.

Q. Yes, on March the 1st, 1932. A. That time I have no business.

Q. Did nothing? A. No.

Q. And you lived at home with your family, didn't you? A. Just a second. That time I had the business on 22nd Street, East Side.

Q. And you lived at home with your family? A. Yes, sir.

Q. And your business on the East Side was what? A. Silk painting.

Q. What time did you come home that night from your business? A. Five o'clock I left.

Q. What time did you usually come home those days? A. Five, six o'clock.

Q. And your family consisted of yourself, your wife and child? A. Two children.

Q. Young children? A. The boy is seven and the girl ten.

Q. You lived with your family then, didn't you? A. Yes.

Q. Did you have breakfast with them? A. Yes, every morning.

Q. Did you have lunch with them? A. No.

Q. Did you have dinner with them? A. Yes, sir.

Q. What time did you usually have dinner? A. Usually when I came home mine wife prepared the dinner and—

Q. Yes. Well dinner or supper we will call it, the same thing. A. Yes.

Q. Yes. That was your usual custom? A. Yes, sir.

Q. And you had supper I suppose home that night? A. When I came home from Bronx that night I had supper.

Q. You didn't have supper with your family that night? A. Before I went away, no.

Q. You didn't have supper as you usually did that night? A. No, no.

Q. You didn't have supper that night until eleven o'clock, did you? A. No.

Q. Why? A. Because I went away from that time to that friend of mine to order that design for next day.

Q. But why? You were home at five or six o'clock? A. Yes, I went home.

Q. Wasn't your supper prepared? A. No, it wasn't.

Q. Oh, so you left because your supper wasn't prepared? A. Yes, sir.

Q. It wasn't because— A. Not only—

Q. Sir? A. —because I went to that friend of mine and supper wasn't finished.

Q. So that you didn't have supper home for both

reasons: One, that it wasn't prepared and, two, you were going to a friend's home? A. Right.

Q. And you didn't eat any supper at all until eleven o'clock? A. No, no, except that coffee and that cake in that lunchroom.

Q. Just the coffee and the cake? A. That is all.

Q. How far from the bus, when you got off the bus, did you walk to the restaurant? A. About three— two, three, five minutes, something like that, no more.

Q. Five minutes? A. No more.

Q. You didn't talk to a soul in that restaurant, did you? A. No. Yes, to a lady who served me coffee. I asked for the coffee and the cake.

Q. But nothing else. A. Nothing else, sir. Nothing else.

Q. Not a word? A. Not a word, sir.

Q. When you got out of the restaurant you wanted to go back, didn't you? A. Yes, sir, to Bronx.

Q. And you didn't know how to go, did you? A. No.

Q. So you had to ask somebody? A. I know it before I went in.

Q. Well now. Just a minute. When you got out, did you have to ask somebody? A. No.

Q. You didn't ask anybody? A. No, no.

Q. Not a soul? A. Not a soul, sir.

Q. Now, you think that it was shortly before midnight on February the 22nd that you took your boy to the hospital? A. Yes, sir.

Mr. Fisher: Will you let us see the date?

Mr. Wilentz: You may see whatever I have here. You take the witness.

Mr. Reilly: May we have a minute to look at this?

The Court: Certainly.

Mr. Reilly: I might say to your Honor that I am expecting some witnesses from New York, and they may be outside or across the street or somewhere; among them the next witness to be called. After we finish with this witness or this record, may we adjourn for lunch?

The Court: I think so.

Re-Direct Examination by Mr. Reilly:

Q. What time on Washington's Birthday night did you first send for a doctor in connection with your son's illness? A. I didn't send; I called up.

Q. All right, called up. What time did you first call up? A. Almost midnight.

Q. Almost midnight? A. Very late.

Q. Did the Doctor come to your house? A. Yes, sir; about a half an hour later.

Q. Who was the doctor? A. Dr. Brunner.

Q. Then it was not at nine o'clock that you telephone for the doctor? A. No. No, sir.

Mr. Reilly: It seems to be the concensus of the defense table that this key that was struck by the reporter, a "9" should have been "12." That is why we asked this question so as to have the official record changed. Here the record shows a "9" in figures. We contend that that is the wrong key.

The Court: I know, but it certainly, your contention would not justifiy a change in this official record. You see, every presumption is

that the official record is correct. That is what we have the record for.

Mr. Reilly: And that is why we call at this time—

The Court: Of course you may examine and your witness has said—

Mr. Reilly: Yes, and that is the way we hold it all the time ourselves.

By Mr. Reilly:

Q. Now, Dr. Brunner came, you say, a half hour after you phoned for him or sent for him? A. Yes, sir.

Q. To your best recollection, what time was that that he came? A. It was around half past— after midnight.

Q. After midnight. As the result of Dr. Brunner's call after midnight of Washington's Birthday did your son go to a hospital? A. My wife took right away in a blanket.

Q. About what time would you say in the morning of the 23rd of February did your son leave for Bellevue Hospital? A. It was right after the doctor left I run out for a taxi cab, I brought it there and my wife took it.

Q. What is your best recollection, one o'clock? A. Around one o'clock.

Q. Around one a. m. February 23rd? A. You really could see in the Bellevue, the records there.

Q. No, please answer. One o'clock in the morning, is that it? A. About that.

Mr. Reilly: That is all.

Re-Cross Examination by Mr. Wilentz:

Q. You have told us, I think, several times, so please don't be concerned about it, but I would like to know just once more. When you left Singer's home— A. Yes, sir.

Q. —somebody told you how to go home? A. No. When I left Mr. Singer's home?

Q. Well, before you left somebody told you how to go home, didn't they A. No.

Q. How did you go home? A. I walked back as I walked there to the subway station.

Q. What subway station? A. Lexington Avenue.

Q. Yes. At what street? A. I can't tell you; somewhere around Intervale Avenue, I don't know.

Q. And you got on the subway. A. Yes, came downtown to 86th Street. I changed at one station for the 77th Street Lexington Avenue subway; at 77th Street I got off and I walked home.

Q. What is your boy's name? A. Louis.

Q. You are in good health, are you, sir? A. Thank God.

Q. Yes. You have been in good health right along? A. Since I am living.

Q. Yes. All right, sir.

Mr. Wilentz: Thank you. That is all.

The Court: We will now take a recess until— Had you finished with the witness, Mr. Reilly?

Mr. Reilly: Yes, sir.

The Court: We will take a recess until 1:45. The people in the audience will remain seated, as usual, until the jury has retired. The jury may go.

(The jury retired at 12:28 p. m.)

The Court: The prisoner is now remanded to the custody of the Sheriff.

(The prisoner retired in the custody of the Sheriff.)

The Court: The Court will now take a recess until 1:45.

(At 12:30 o'clock p. m. a recess was taken until 1:45 o'clock p. m.)

AFTER RECESS.

(1:46 P. M.)

(The jury was polled and all jurors answered present.)

Mr. Reilly: Mr. Van Henke.

AUGUST VAN HENKE sworn as a witness in behalf of the defendant:

Direct Examination by Mr. Reilly:

Q. Mr. Van Henke, where do you live? A. I live 418 East 88th Street.

Q. New York City? A. New York City.

Q. Will you try and speak just a little bit louder than that when your are speaking. A. All right.

Q. And where did you live on March 1st, 1932? A. 1463 Vyse Avenue, The Bronx.

Q. V-y-s-e, is that right? A. Right.

Q. And how near was that to Dyer Avenue?

A. Dyer Avenue, I don't know; I only know Dickerts Park, they changed the name a couple of years ago.

Q. Some time before March the 1st, 1932, did you own a police dog? A. Yes, sir.

Q. And how long did you own that dog? A. Oh, about a couple years.

Q. Did you lose the dog A. Yes.

Q. When? A. In middle of February.

Q. 1932? A. 1932.

Q. And where did you live at that time? A. I lived always at 1463 Vyse Avenue.

Q. And what was your business then, Mr. Van Henke? A. In the restaurant business.

Q. Where? A. In 172 East 124th Street.

Q. Do you remember March the 1st, 1932? A. Yes, sir.

Q. Do you remember March the 1st, 1932, being in the neighborhood of a gasoline station? A. Yes, sir.

Q. Where was that gasoline station? A. On Boston Post Road right across the street from Dickerts Park.

Q. From where? A. From what they call, German, Dickerts Park they call it. They changed the name. Different name now. It is a couple years ago they changed it.

Q. What was the name of it in 1932? A. That was— I know the park by Dickerts Park.

Q. Dickers Park? A. Ruylers Park—no, it is a different name, you know. They changed it.

Q. Well, we have a map of the Bronx here. A. All right.

Q. Maybe we can find this street here. What street were you on? Where was the gas station? A. Right where is Dickerts Park.

Q. And what other street Boston Post Road? A. Boston Post Road, yes; right there, I believe it is right there; it runs in there.

Q. Well, here is Boston Post Road. Where had you been before you came to the gas station? A. I came from New Rochelle.

Q. What time were you in New Rochelle? A. Well, I was in New Rochelle, that was about half past seven, something like it.

Q. What time did you get there? A. About a quarter past seven.

Q. Who were you visiting? A. I went to a friend of mine, Herman Kipper.

Q. Herman what? A. Herman Kipper.

Q. Where did he live in New Rochelle? A. He lives in Mechanic Street, right on top of Cohen's Clothing Store.

Q. What time do you say you left New Rochelle? A. Oh, I only stepped in there and found out if he was in his store.

Q. He wasn't home. Is that it? A. No, he was not in the store.

Q. Where is his store? A. Right in Mechanic Street.

Q. What kind of a store? A. A clothing store.

Q. And so you left New Rochelle? A. Yes, sir.

Q. Now, New Rochelle is in the Bronx, east side of the Long Island Sound, isn't it? A. Yes.

Q. And it is above City Island? A. Yes.

Q. Hunters Island? A. Yes.

Q. And Pelham Bay, isn't it? A. Pelham Bay, yes.

Q. So that it was beyond— here is Pelham Bay on this map (indicating.) A. Yes.

Q. New Rochelle would be further up the Sound in the same direction. A. Yes; Pelham Manor and then after Pelham Manor comes New Rochelle.

Q. So it would be on this part of Long Island Sound? A. Yes, yes.

Q. And how did you proceed from New Rochelle, up here if the map were continued? A. Yes.

Q. How did you proceed down into New York City? A. I went up the Bronx River,— no, Bronx Pelham Park they call it.

Q. Bronx Pelham Parkway? A. Yes, sir.

Q. You same down that? A. I came up that way to New Rochelle.

Q. Tell us about coming back. A. Then through Church Street, I went from Church Street, I went into main street that runs to New Rochelle and I went into Mechanic Street, Mechanic Street I stopped. I was looking for Mr. Keuper in the store.

Q. Keuper? A. K-e-u-p-e-r, Keuper, and a man in the store told me—

Q. Never mind. You left the store to come back. Did you come back the same way? A. No.

Q. How did you come back? A. I went the next street to New York.

Q. Where was this gas station? A. On Boston Post Road.

Q. Do you know what street it is on? A. I believe one street runs in here from Dickerts Park, there is an end of the street, I believe it is what they call Ryer Street. I haven't looked at the name.

The Reporter: Ryder Avenue?

The Witness: Ryder Avenue, or whatever is the name. The Boston Post Road runs into it.

Q. It begins, you say at the Boston Post Road some place? A. Yes.

Q. Now, as you approached the gas station, you told us about,— did you see anybody and did you see anything that attracted your attention? A. Soon I get on the gas station with the car, I see a dog there on that street what runs west. I get out of the car, left the car on the station and I went out the car,

followed the dog, went after that dog. As soon as I pass the station, the gas station, a man stepped up to me and asked me, he says, "Is that your dog?" He says, "It looks like my dog," or you know what he said, "No," I said, "if that is your dog," I says, "it is my dog. If you claim it, I will have you arrested." So he said—

Q. Did the man say who the dog belonged to? A. Yes.

Q. Who? A. He says it belongs to the baker, he points down to the street.

Q. And do you see that man in the court room? A. Yes, I believe that man, that is the man, yes (pointing in the direction of the defendant,) next to the man with the glasses.

Mr. Wilentz: Now just a minute. There is no necessity for the defendant to stand up to identify himself.

Q. Well, we won't have any doubt about it. Is that the man? A. That is the man.

Q. The defendant? A. Yes.

Q. Now I want you to tell the jury, you didn't know this man did you? A. Never seen him before.

Q. Never seen him before. You had lost a police dog? A. Yah.

Q. The dog looked like the dog you had? A. Yes, sir.

Q. And the conversation concerned your dog, didn't it? A. Yes, sir.

Q. Now, slowly and distinctly tell this jury what you said and what the defendant said to you. A. Now, soon I drove in the station. I see the dog there, end of the station, about fifty, sixty feet from the Boston Post Road. I went out my car, I jumped out the car and went after that dog. Soon I get end of the station, the gas station. A man stepped

up to me and I ask him, I says, "Is that your dog?" Of course he came up to me. He says, "No. It belongs to the bakery." So I said, I says, "If that is— if that was my dog and you got him in your possession I will have you arrested."

Q. Did you think it was your dog? A. After I look him right, I call him, you know, I call him by name—

Q. What was your dog's name? A. My name was Rex.

Q. Was the general description of the dog— A. As nearly—

Q. —the same as yours? A. Nearly the same only this dog got some little black spots in the back of his, no know, neck, and he didn't listen to my call

Q. Didn't listen to your call? A. No.

Q. But at first you thought it was your dog. A. Yes.

Q. And you are sure you were talking to this defendant. A. I was talking to this man right there.

Q. When he told you it belonged to the baker, what did you say? A. I said, "If it would be my dog I would have you arrested. I don't care who you belonged." And he said, "No." He said this way: "That dog belongs to the baker and I am not the baker," you know, in German. We talked German right away, soon I found out, I call the dog in German and he call him in some—what he call him, some kind of a name, Rupier, or some kind of name, funny name.

Q. It wasn't Rex? A. It wasn't Rex. So he listened to the dog and then I got a little conversation with him.

Q. And what else did you say to the man? A. Oh, I told him—

Q. About the dog. A. I told him, I says, "If it would be my dog I would have him locked up."

Q. What else did you say to him? A. Well, I told him, I give him my name, where I was living.

Q. What did he say to you? A. He said "All right; the baker—" He calls him a different name, you know, what the baker's name was, and he told me his name is Hauptmann.

Q. He told you right there in that spot? A. That he did.

Q. That his name was Hauptmann, did he? A. Yes; and I should come along to the bakery to make sure that that dog belonged to the baker. I see— I know it is not my dog.

Q. And you got into your car? A. I went to the car and took five gallons gas and I went to New York.

Q. And, as a matter of fact, you did find your dog, did you not, some days later? A. Yes, in March the 4th.

Q. Now, why do you place this and how can you place this date as March the 1st, 1932? A. Well, I believe that was the day when everybody knows that Lindbergh's baby was kidnaped.

Q. Did you hear of that any time during that night? A. I came home, you know, it was about nine o'clock; so I went, got my dinner, and then I went outside again. You know, there was a lot of noise on the street, you know, and people was talking and they said, "You know, Lindbergh's baby is kidnaped."

Q. What time of the night would you say that you heard that Lindbergh's baby had been kidnaped? A. That was around between ten, eleven, eleven o'clock; something like it.

Q. Now, you don't know me, do you? A. No.

Q. You don't know any of the counsel for the defense? A. No.

Q. Mr. Pope; Mr. Rosecrans— A. No.

Q. Mr. Fisher? A. No.

Q. And you do not know the defendant outside of this identification: is that right? A. That night.

Q. And you are not related to them? A. No.

Q. Tell the jury how you became a witness in this case.

A. After Hauptmann was arrested and I hear about it, that they got the fellow what kidnapped Lindbergh's baby, first I didn't pay no attention to it and then I thought myself—

Mr. Wilentz: Just a minute. I object to what you thought yourself. What did you do?

By Mr. Reilly:

Q. After you thought a while, what did you do? A. I wrote, as soon as I got the lawyer, I wrote to Mr. Fawcett, I believe was his name.

Q. You wrote to his first lawyer? A. A letter.

Q. That was shortly after his arrest? A. After his arrest.

Q. Did you tell Fawcett in your letter what you told on this witness stand? A. I told him I know something about the man that was arrested there. I gave—

Mr. Wilentz: Just a minute. You have answered the question.

Q. All right, you wrote a letter. That letter contained practically the same information that you have given from this witness stand, is that right? A. Yes.

Q. You have no interest in this case, have you, except to come here in the cause of justice? A. That is all.

Q. You know nobody connected with the case? A. I know nobody.

Q. You are absolutely sure that on March 1st, 1932, at what time was it? A. In the night time?

Q. Yes, what time do you say you were at the gas station? A. I couldn't say, a couple of minutes before eight or a couple of minutes after eight.

Q. In the neighborhood of eight o'clock in the Bronx at a gas station— A. Gas station.

Q. —you saw this defendant? A. Yes, sir.

Q. And talked with him? A. Yes, sir.

Q. And he gave you his name as Hauptmann? A. Yes.

Mr. Reilly: You may inquire.

Cross-Examination by Mr. Wilentz:

Q. What is your name, sir? A. August Van Henke.

Q. Who was with you on the night of March 1st, 1932? A. I went all by myself.

Q. Anybody with you at the gas station? A. No, sir.

Q. You bought gasoline there, didn't you? A. Five gallon.

Q. From whom? A. From the station what was there on the corner.

Q. Who was the man that sold you the gasoline? Did you know him? A. No, I never seen him before, maybe I see him before, maybe I didn't pay no attention to him.

Q. You don't know who he is? A. No.

Q. Do you know August Wunstorf? A. Yes.

Q. Who is August Wunstorf? A. I put the money—

Q. Who was August Wunstorf? A. That is me.

Q. I thought you said your name was Van Henke. A. Yes.

Q. Well, is it Van Henke or is it August Wunstorf? A. August Van Henke.

Q. But you have used the name of August Wunstorf, haven't you? A. Yes.

Q. What for? A. On account of I got a little family trouble.

Q. Which is your right name? A. My right name is August Van Henke.

Q. Not Wunstorf? A. No, sir.

Q. When did you use the name of Wunstorf? A. It was a couple of years ago.

Q. What year? A. It was in 19— I believe about four years ago, four years, something like that.

Q. Four years ago? A. Yes.

Q. On account of some trouble? A. Yah.

Q. Where did you use the name? A. In the bank.

Q. Kept your bank account in the name of Wunstorf? A. Yes, sir.

Q. On account of family trouble? A. Yes.

Q. What business were you in then? A. I was in the restaurant, formerly saloon.

Q. What do mean by formerly saloon, when was it? A. That was—

Q. Formerly. A. It was a saloon before prohibition. I turned it over to a restaurant.

Q. Where was this restaurant? A. 1416 Vyse Avenue for eight years.

Q. From what years to what years? A. Oh, I couldn't tell you the day and the year.

Q. Well, you had a place there since 19— A. I have been there 1920—

Q. To 1931. Is that right? A. 1920, up to I I wouldn't say to '31.

Q. It was a speakeasy, wasn't it? A. I don't know.

Q. Well, you ran it. A. Yes.

Q. You operated it, didn't you? A. Yes, open door.

Q. Open door speak easy. A. I don't say it was a speak easy.

Q. Well, you sold liquor there, didn't you? A. I didn't sold liquor.

Q. You kept a book there too, didn't you? A. Who, me?

Q. Do you know William Goodwin? A. No, I don't know William Goodwin.

Q. Do you know any Goodwin? A. Yes, sir.

Q. What is the name of the Goodwin you know? A. Walter Goodwin.

Q. Did he work for you? A. No, sir.

Q. What connection did you have with Walter Goodwin? A. Walter Goodwin, he came in there and he make the book.

Q. You made a book for horse races, you mean? A. Horse races, yes.

Q. In your place? A. Yah.

Q. So you had this restaurant at the time? A. Uh huh.

Q. Open door speak easy. A. Open door restaurant, yes.

Q. And speak easy? A. No speak easy.

Q. Well, weren't you raided and liquor found in there? A. There was a— it was raided, yes, but I don't know if they found any liquor.

Q. Well, you were there, weren't you? A. I was there.

Q. How many times was your place raided? A. Well, I suppose a couple of times.

Q. A couple of times? A. I don't know how many times.

Q. So many times you don't remember, is that it? A. No, a couple of times.

Q. How many is a couple? A. Well, I believe about—

Q. Sir? A. Two or three times.

Q. Two or three times? A. What I know of.

Q. So at that place you ran a restaurant? A. Yes.

Q. And a place that was raided for liquor and liquor was found there? A. They claimed they found. I don't know if they found it.

Q. And a place where men were operating what they call a handbook; that is to say, where people could come in to bet on horse races? A. Not while I was there.

Q. Well, you knew Goodwin was there and you knew that— A. I threw him out many times.

Q. And many times he would come back again? A. He always came back. (Laughter in courtroom.)

Q. You wouldn't stand for that, would you? You wouldn't stand for that? A. No, sir.

Q. You got part of the profits, didn't you? A. I didn't get no profit off him.

Q. How many years did Goodwin work there? A. Well, I know him since 1920.

Q. Well, he was there for five years, wasn't he? A. I don't know if he was there for five years.

Q. In your place, I am talking about. A. He was around there.

Q. How many years? A. I don't know how many years.

Q. Well, you see, it was your place, not mine, and I have got to find out from you. A. Yes.

Q. Will you please tell us how many years Mr. Goodwin was there. A. How I could tell you if I don't know.

Q. You don't know? A. He was around there a few years, but I don't know how many years.

Q. A few years? A. Yes.

Q. Three years? A. I don't know.

Q. Well now, that was at Vyse Avenue, wasn't it? A. Yes, sir.

Q. All right, now, let's get away from Vyse Avenue for a minute because you were only there until 1931. A. Yeah.

Q. You moved to another place, didn't you? A. Yeh.

Q. What was the address there? A. 124— no, 172 East 124th Street.

Q. And finally to Lenox Avenue? A. No, near Lenox Avenue— yeh, that is a restaurant, 282 Lenox Avenue, yeh.

Q. When did you get to Lenox Avenue? A. After I went away from the Bronx.

Q. You mean from Vyse Avenue? A. From Vyse Avenue.

Q. Right from Vyse Avenue to Lenox Avenue? A. Yeh— no, 124th Street first near Seventh Avenue.

Q. Yes. What kind of business did you operate there? A. The same what up in the Bronx.

Q. Speakeasy? A. You call it a speak. I says a restaurant. We got meals there.

Q. Yes. You have meals there. And when you have meals with liquor that makes it a restaurant, is that what you mean? A. There was never, I had never a charge about selling liquor.

Q. Did you have just a restaurant there? A. No, with restaurant, with drinks.

Q. At Lenox Avenue? A. On Lenox Avenue is only a restaurant.

Q. But in the other place, restaurant with drinks? A. There I got no beer in Lenox Avenue. I got beer on 124th Street and Vyse Avenue.

Q. Vyse Avenue? A. Yeh.

Q. But at Lenox Avenue just a restaurant? A. Yes.

Q. Only a restaurant? A. Only a restaurant.

Q. No other business? A. No other business.

Q. How about— didn't you operate a bedhouse there? A. What you mean?

Q. A house with beds in it? A. Never. I only owned the store.

Q. Did you have beds in it? A. No, sir.

Q. At Lenox Avenue? A. Yes, sir; Lenox Avenue.

Q. Didn't you operate a bed house there. A. No.

Q. A speakeasy and bed house? A. No, sir; no, sir.

Q. What customers did you have there, what kind of customers did you have at this speakeasy at Lenox Avenue? A. Pardon me; it was no speakeasy.

Q. The restaurant. A. No speakeasy, restaurant.

Q. What kind of customers? A. The customers that came off the sidewalk in the door.

Q. Was it a neighborhood that was patronized both by colored people and white people? A. No colored at all.

Q. Didn't you rent out rooms there to men and women? A. Listen, I never had a room upstairs there, I never went up those stairs.

Q. What was there up there? A. I don't know.

Q. What above the place that you ran as a restaurant? A. Yes.

Q. What was on the second floor? A. I don't know.

Q. Who was the tenant there? A. Not me.

Q. Isn't it a fact that there were rooms there— A. I don't know.

Q. Isn't it a fact that the rooms were for men and women there? A. No, sir; not that I know of.

Q. Didn't blacks and whites mingle up in those rooms? A. No.

Q. And didn't you operate it? A. No, sir; it's a lie; no, sir.

Q. Let's see. Who is August Marhenke? A. August Marhenke through the War.

Q. Just a minute. Who is August Marhenke? A. That is me.

Q. That is your name? A. Yes, sir.

Q. So it is August Marhenke? And August Van Henke? A. Yes.

Q. And August Wunstorf? A. All me, yes.

Q. You had a dog that was stolen, didn't you? A. Yes, sir.

Q. Did you report the fact that the dog was stolen to the police? A. I went down to 124th Street; yes, sir.

Q. Did you report it? Did you have a license for the dog? A. Yes, sir.

Q. Where was the dog stolen? A. 124th Street, I said.

Q. 124th Street? A. Yes, sir.

Q. Where did you live at the time? A. At that time I was living on Vyse Avenue, and 124th Street my nephew was living there.

Q. Never mind about the nephew. I want to know where you were living. A. Yes, sir.

Q. Where were you living? A. Vyse Avenue.

Q. That is up in The Bronx? A. Yes, sir.

Q. How many blocks away from 124th Street? A. Quite some distance.

Q. How many miles away? A. I didn't count the miles. 124th to 172nd. How many blocks is it?

Q. What is the nearest police station to your home in the Bronx? A. The Bronx?

Q. At that time, yes. A. Simpson Street station.

Q. What is that? A. Simpson Street.

Q. Central Street? A. Simpson Street.

Q. Simpson. You didn't go to the police station near your home, did you? A. I told the cop on the beat.

Q. You did not go to the police station near your home, did you? A. No.

Q. To report the loss of the dog? A. No, no.

Q. You went down to 124th Street where your nephew lived? A. 123rd Street.

Q. 123rd Street? A. Yes—'24th, pardon me.

Q. What name did you give? A. What?

Q. What name did you give? A. Van Henke.

Q. What date was it about? A. It was in February.

Q. You reported it in February? A. Yes.

Q. How many days before you met this defendant Hauptmann was it that you reported the loss of the dog? A. How many days before?

Q. Yes; about how long before you met this defendant was it that you went to 123rd Street? A. At that time I met this Mr. Hauptmann.

Q. Yes. A. That was the time my dog was gone.

Q. Yes, sir; and how many days before that was it that you went to that police station to report the loss of your dog? A. I went down to '24th Street and the cop told me down there to look them over.

Q. When, how long before you met Hauptmann? A. Well, maybe four days before.

Q. About four days? A. Yes, four days; I couldn't say exactly four. The dog was gone about ten days.

Q. And four days before you met Hauptmann, about, about four days before? A. Yes.

Q. You went down to 124th Street? A. Yes, sir.

Q. You used the name of Van Henke? A. 124th— no, 24th.

Q. 24th? A. 24th, where they get them dogs, you know.

Q. The dog pound? A. The dog pound.

Q. 24th Street. A. Yes. I believe it is 24th, or 23rd, and the East River.

Q. Was it a police station? A. No, no police station

Q. You didn't go to any police station? A. No.

Q. You went down to the dog pound? A. Yes.

Q. About four days before? A. Yes.

Q. And you gave your name as August Van Henke? A. Yes.

Q. Four days before? A. Yes.

Q. You wrote Mr. James Fawcett, a member of the Bar of the State of New York, a letter? A. Yes.

Q. Did you ever talk to him? A. Never talked to him.

Q. Did he send investigators to see you? A. Never, nobody.

Q. Well, did you read the testimony in the Bronx, about the trial in the Bronx? A. I read some of it.

Q. You did read some of it? A. I believe it.

Q. You didn't find anything in Hauptmann's story about a dog in the Bronx, did you? A. No.

Q. No. And if Mr. Hauptmann didn't say anything about a dog to Mr. Fawcett of course he couldn't use you, could he?

Mr. Reilly: I object to that, what Mr. Fawcett would do. He is not in this case any more.

Mr. Wilentz: I think the objection is possibly well taken. I will withdraw the question.

The Court: Withdrawn.

Q. Did you use any other name besides Van Henke—Wunstorf and Marhenke? A. No, I didn't use any other name.

Q. When you were arrested on various occasions did you use any other name? A. No, sir.

Mr. Reilly: I object to the form of the question.

The Court: The objection is sustained.

Q. Have you an automobile? A. Yes, sir.
Q. Now? A. No, sir.
Q. When was the last time you had an automobile? A. In January, 1933.
Q. When did you come to this country? A. Oh, about 1905.

Mr. Wilentz: All right, sir, That is all.

Re-Direct Examination by Mr. Reilly:

Q. Now, will you spell Van Henke for us? A. Van Henke?
Q. Yes. A. V-a-n Capital H-e-n-k-e.
Q. Now, you say in order to protect your bank accounts because of family trouble— A. Yeh.
Q. You had your name, the bank account one, changed? A. Wunstorf.
Q. Will you tell us how to spell that, please. A. W-u-r-n— I mean, W-u-n-s-t-o-r-f, Wunstorf.
Q. And this other name, how do you spell that Marhenke? A. Marhenke?
Q. How do you spell it? A. M-a-r-h-e-n-k-e.
Q. So Van Henke and Marhenke are all the same except for the first syllable? A. Yes; I changed that in the time of the War, you know; as soon the War broke out, you know, I change them name.
Q. When the War broke out and we went in against Germany you took the Van over, is that it? A. Before.
Q. Before? A. As soon the feeling was against Germany, I took the Van off.
Q. You took the Van off and put a "Mar" on? A. There is nothing against my name anywhere.
Q. Nothing against your name? A. No convictions, never.

Mr. Reilly: That is all.

Re-Cross Examination by Mr. Wilentz:

Q. When did you take the name Van Henke and change it to Marhenke? A. As soon as the War broke out in Europe.

Q. What name— And you have used Marhenke even since? A. I used Van Henke ever since.

Q. Van Henke? A. Van Henke, yes.

Q. But you changed to Van Henke? A. Van Henke is my citizen paper, and I landed here under Van Henke.

Q. And your right name at the time was what? A. My name when I landed here, my right name, is Van Henke, and it is very hard to express—

Q. Just one minute. You came here in 1905? A. 1905.

Q. You came here under the name of Marhenke? A. Yes.

Q. M-a-r-h-e-n-k-e, is that right? A. Marhenke, yeh.

Q. Not two words, one word, Marhenke? A. One word.

Q. One word? A. Yeh.

Q. And that was your name? A. That was my name.

Q. That was your correct name? A. That is my correct name today.

Q. You see, today you told us before Van Henke was your right name. A. Yes. I have been here under Van Henke; I wouldn't deny it any more; I listen to Van Henke.

Q. Yes. I know you won't deny it. What I want to know is this— A. Yeh.

Q. Before yau started here, you said your correct name was Van Henke. A. Yes.

Q. Now, you say your correct name is Marhenke? A. Yeh.

Q. And that is the truth, isn't it, Marhenke? A. Marhenke.

Q. All right, sir. Now, when did you change Marhenke to Van Henke, at the time of the War? A. At the time of the War.

Q. Because Marhenke was too German? A. Yes.

Q. Why, Van Henke is more German, isn't it? A. That is Holland.

Q. You changed the Marhenke to V-a-n? A. V-a-n.

Q. Capital V-a-n H-e-n-c-k-e? A. K-e; no "c."

Q. No "c"? A. No "c."

Q. H-e-n-k-e, right? A. K-e.

Q. Van or Von? A. V-a-n.

Q. So, you proceeded along under the Van Henke name? A. Yes.

Q. What was the name under which you got the automobile license? A. Van Henke.

Q. Not Marhenke? A. Van Henke.

Q. Not Marhenke? A. No, sir.

Q. You got your automobile license under a fictitious name? A. Under Van Henke.

Q. Yes, and you continued to use Van Henke till when? A. Up till today.

Q. All the time? A. Yeh.

Q. You don't use Marhenke any more? A. I get letters under Marhenke and letters under Van Henke.

Q. You don't use any except the name Van Henke? A. Van Henke.

Q. As a matter of fact, you went down to the relief bureau in New York and registered as what, Van Henke? A. Marhenke.

Q. So you do use Marhenke? A. Marhenke.

Mr. Wilentz: That is all.

Mr. Reilly: That is all. Step down.

Mr. Harding.

LOU HARDING, was sworn as a witness on behalf of the defense:

Direct Examination by Mr. Reilly:

Q. Mr. Harding, you live in Trenton, don't you? A. Yes, sir.

Q. What address? A. 100 Bruin Avenue.

Q. Keep your voice up please? A. 100 Bruin Avenue.

Q. You lived in Jersey for how many years? A. Ever since 1923.

Q. And you are married? A. Yes, sir.

Q. And live with your family at that address? A. Yes, sir.

Q. In 1932 in the month of February and on March the 1st where were you employed? A. Social Service at Princeton.

Q. New Jersey. A. Yes, sir.

Q. And what work were you doing for the Social Service at Princeton, New Jersey at the end of February and the 1st of March? A. Laboring work.

Q. How long had you been working there before the first of March? A. I started along in January, I think it was, if I am not mistaken.

Q. And your laboring work consisted in doing just what kind of work there? A. Yes, sir.

Q. What kind of work? A. Well, we was putting down a sidewalk along the street, along the road.

Q. Along the road; and do you remember the name of the road? A. Washington Road.

Q. Washington Road. Do you remember March the 1st, 1932? A. Yes, sir.

Q. Were you working? A. Social Service at Princeton.

Q. Were you working in Princeton? A. Yes, sir.

Q. Were you working on that road? A. Yes, sir.

Q. At about what time in the afternoon did you see an automobile? A. It was between two and three-thirty.

Q. On the afternoon of March the 1st, 1932? A. March the 1st, 1932.

Q. And where were you when you saw this automobile? A. I was right alongside the road, right on the road when I saw the automobile.

Q. Now I want you to tell the jury just what you saw, the conversation you had, if the Attorney General doesn't object; if he does, we won't have the conversation with the people in the automobile. A. Well, March the—March the 1st, 1932, it was two people come along in a car.

Q. Men or women? A. Men. And was asking me to direct them to Lindbergh's estate and I told them and directed them to the best of my knowledge, but I directed them out toward Rocky Hill and told them to go to Rocky Hill and turn to the left and then they would find the way to the Lindbergh estate.

Q. And how long were you talking to those two men? A. I was talking to them at least about five minutes, four or five minutes.

Q. Was either one of those two men this defendant? A. No, sir, it was not.

Q. Now did you look in the car? A. Yes, sir, I certainly did.

Q. And what did you seen in the car? A. What I seen in the car, was a ladder in the car.

Q. A ladder in the car? A. Yes, sir, and a pasteboard box.

Q. And a pasteboard box. What kind of a pasteboard box? A. Well, it was a brown pasteboard box about three-foot long I guess, I imagine about that long or maybe a little bit longer.

Q. Now will you describe the car, please? A. Yes, sir. It was kind of a dark blue suburban car.

Q. What kind of a license did it have on it? A. New Jersey license plates on it.

Q. And now you said a suburban car—will you describe that more fully and in more detail to this jury? A. Yes, sir, I will. A suburban car, what I mean, is a suburban car, it has got three or four seats into the car, see? And them seats was out. It was no seats in there at all, but the ladder was down in the bottom of this car and the box was on top of it.

Q. And were the two men sitting on the front seat of the car? A. In the front seat of the car.

Q. And it was daylight? A. Daylight.

Q. And you had a good look at them? A. I certainly did.

Q. And the car drove away in the direction— A. Of Princeton.

Q. Of Princeton. Now, in the early morning of March the 2nd, 1932, were you taken in hand by the State Police? A. Yes, sir, not by the State Police, by the township police, Princeton.

Q. By the township police. And eventually did you get to Colonel Lindbergh's estate? A. Yes, they took me up to his estate.

Q. What date? A. March the 2nd.

Q. And did you see the Colonel there? A. Yes, sir, I shook hands with him.

Q. And did you see the same ladder that you had seen in that car anywheres around that estate? A. Well, yes, sir, the same ladder.

Q. Where was it? A. The ladder was right up by the window. As I went into the side door, the ladder then was up on the outside by the window, see? And I was in, I just can't say, just exactly what room I was in, but it was in the room where he had the round globes at.

Q. The ladder was in a room? A. No, sir, that is where they had me.

Q. They had you, and how many hours did they

keep you there? A. They kept me there about three or four hours I guess.

Q. You told them the same story you have told here? A. Yes, sir, I did.

Q. Look at the ladder that was offered in evidence and tell me if that is the same ladder you saw in the car.

Mr. Reilly: May we have the ladder?

Mr. Wilentz: Certainly.

(The ladder, State's Exhibit S-211 was brought in.)

Q. I show you the State's Exhibit S-211, the ladder. Was the ladder that you saw in the car on the Princeton Road that afternoon of March 1st, 1932, a ladder of that description? A. It was something kind of like that. The ladder was laying down that way in the car (placing the ladder on the floor). It was a pasteboard box on top of it I guess that covered the ladder to along here or maybe a little more of it (indicating). I couldn't see just exactly how much it was, but I got a glimpse of some of the ladder.

Q. Your best recollection is that it was a ladder of this description? A. Yes. Something about like that.

Q. It was laying across the bottom of the floor and the seats had been taken out? A. Laying longways of the car.

Q. Now will you take the ladder, please, and to the best of your recollection, how many of the lengths of this ladder on the next day, March 2nd, did you see up against the wall of Colonel Lindbergh's house? A. Well, I don't—I couldn't get a good view of the ladder, but as near as I got to it the ladder was up, I couldn't say definitely how—

Q. All three sections, you think? A. I guess it was, yes; all three sections must have been up.

Q. And you have lived in Princeton since then—or, rather, in Trenton since then? A. Yes, sir; I was living in Trenton at that time too.

Q. And you gave your name and address to the State Police March 2nd? A. Yes, I did.

Q. Up at Colonel Lindbergh's estate? A. I did.

Q. And were you subpoenaed here by the State? A. No, sir; I wasn't.

Q. And did you write the attorneys in this case a letter? A. Yes, sir; I did.

Q. And is that why you are here? A. That's why I am here.

Mr. Reilly: You may inquire.

Cross-Examination by Mr. Wilentz:

Q. What police, what State Police did you give your name to and tell your story to? A. I told my story to the township police and I told my story to Mr. Lindbergh over there himself.

Q. I asked you what State Police you told your story to. A. Well, it must have been Schwarzkopf, the one that he had there in his office, was questioning them.

Q. It must have been? Don't you know to whom you were talking? A. I know I was talking to Mr. Lindbergh himself too.

Q. I am talking about— A. And these other two or three guys that were in there questioned me.

Q. You what? A. I don't know their names.

Q. Then why do you say Schwarzkopf if you don't know the name? A. No, it must have been him then.

Q. Well, you don't know whether it was or not? A. No, I don't know definitely.

Q. No. A. Which one it was. I don't know them by their names.

Q. Now, you have lived in Trenton how long? A. I lived in Trenton now about, I would say, from 1928 on up, '27 on up.

Q. Where were you born? A. Lumberton, North Carolina.

Q. Under what name? A. Harding, Lou Harding.

Q. Lou what? A. Lou Harding; Luther Harding. That is the way I am registered there.

Q. That is the way you are registered? A. Yes, sir.

Q. What was your father's name? A. Condary Harding.

Q. What? A. C-o-n-d-a-r-y, Condary.

Q. Condary? A. Harding.

Q. And is that where you came from when you came to Trenton? A. Yes, that's where I came from.

Q. From Condary— A. No, from Lumberton, L-u-m-b-e-r-t-o-n. Lumberton. You asked me my father's name.

Q. Yes, that's right. A. Well, I told you my father's name was Condary Harding.

Q. Yes. And you came from where? A. From Lumberton, L-u-m-b-e-r-t-o-n.

Q. To Trenton? A. To Trenton.

Q. When was that? A. That was in 1923.

Q. Now you have lived, you say, in Trenton all these years? A. Not all these years. I lived in Princeton.

Q. How long did you live in Princeton? A. I lived in Princeton until the early part of '27, I guess.

Q. What did you do in Trenton? A. In Trenton?

Q. Yes. A. I worked at the Thermoid Rubber Company.

Q. Doing what? A. During what, you mean? Doing what?

Q. Yes. A. Brake lining pressman.

Q. Brake lining pressman? A. Yes.

Q. How long did you work there? A. I worked there along from August up until '29.

Q. 1929? A. Yes.

Q. From August when? A. I don't know exactly what date it was in August.

Q. I don't mean the date, the year. A. 1928 that is when I got hired and I worked there long, up until the latter part of 1929.

Q. Well, when did you come to Trenton originally? A. 1923.

Q. What work were you employed at in 1923? A. Milk man.

Q. Milk man? A. Yes.

Q. Working for whom? A. Louis Cohen, Altha Dairy, Princeton.

Q. Louis Cohen? A. Yes, that is right.

Q. And how long did you work for the dairy? A. I worked there—well, I quit him a couple of times.

Q. Well, when did you finally? A. Well, I quit him and would go off somewhere else and work maybe for a month and come back and—

Q. The last time, when did you quit? A. Last time I quit him, I quit him along in 1927.

Q. And then in 1927 where did you go to work? A. I didn't work any place, I was just taking a vacation.

Q. Until when? A. Until 1928.

Q. And then you went to Princeton? A. No.

Q. Then what did you do? A. I worked for Swift & Company, Baltimore, Maryland.

Q. Swift & Company, Baltimore, Maryland? A. Yes.

Q. And how long did you work for Swift & Company in Baltimore? A. Well, I tell you, I wasn't intentioning to work there in Baltimore, but my mother was sick—

Q. How long did you work for Swift & Company in Baltimore? A. I worked there as long as my mother was in the hospital.

Q. How long was that? A. I went there along in January and my mother leaves, she went home in February, you see, there was no room for her.

Q. Did you leave? A. No, I worked there along until June.

Q. Then you came to Princeton? A. Then I come back to Princeton again.

Q. Then you went to work where? A. That was 1928. I went to work for the Public Service.

Q. Where? A. Princeton.

Q. Doing what? A. Laboring work.

Q. How long did you work for the Public Service? A. Well, I couldn't tell you. I didn't work very long, I just worked during the summer months out there with them, and then I quit again. I didn't work over a month, I guess.

Q. A month, and then what did you do? A. I went back to Thermoid Rubber Company.

Q. To Trenton? A. Trenton.

Q. Then what? A. Well, I worked there, that's all.

Q. You work there now? A. No, I don't work there now.

Q. When did you quit? A. I didn't quit, I got laid off, work got slack.

Q. When? A. That was 1929.

Q. That was the last time you worked there? A. The last time I worked for Thermoid.

Q. From 1929 to 1935, what have you done? A. In 1931 I went back to Princeton and worked for the Princeton Reservoir.

Q. 1929? A. 1929 and 1930, I worked a little in Essex Rubber Company.

Q. Trenton? A. Trenton.

Q. A little in the Essex Rubber Company in Tren-

ton until when? A. Well, I just can't exactly remember the dates, how long I worked there or nothing else.

Q. You don't have to know exactly, until finally in 1931, what did you do, anything? A. Well, it was along in, I guess, it was June—along in September, that is when I got laid off.

Q. September what? A. I just can't remember what date in September.

Q. Have you ever been convicted of a crime? A. Yeah.

Q. How many times? A. A couple of times—no, one time.

Q. What happened the other time?

Mr. Reilly: I object to the "other time."

Q. Well, weren't you convicted the second time? A. I was convicted of assault and battery, yes.

Q. Assault and battery? A. Yes, sir, I certainly was.

Q. Was it assault and battery? A. Yes.

Q. On a woman? A. No.

Q. When was that? A. In 1931.

Q. 1931? A. Yes.

Q. Where were you in 1930? A. 1930?

Q. Yes. A. I was in Trenton.

Q. Let's go from 1929 now— From 1929 till about 1930 I think you said that you worked on and off at this place in Trenton. A. Yes, I did.

Q. 1929 to about 1930? A. Yes.

Q. Or to '31? A. I worked in 1929— I got laid off at, at the Thermoid.

Q. Until when? A. I goes and starts to working in 19— 1929. I got a job in Essex Rubber Company. I worked there for a while.

Q. In 1929? A. Yeah.

Q. Did you spend all your time in 1929 in Tren-

ton? A. Well, yes, off and on. I have been, I have been there in Trenton all the time, yes, with the exceptions I say for about sixty or thirty days.

Q. Now, then in 1930 where did you live? A. Trenton.

Q. The whole year? A. I wouldn't say the whole year. I said sixty, thirty days might be called out of there.

Q. Is that all? A. Yes, maybe.

Q. Where did you live then? A. Trenton.

Q. Those sixty or thirty days that you weren't there where did you live? A. Is it possible that I got to discuss where I was at that time?

Q. It isn't possible. It is necessary. A. It is necessary that I should?

Q. Yes, we want to know. A. Well, I just can't give you just the exact town I was at that time.

Q. I don't want the exact time. A. Where I was at, I was in Trenton mostly all my time.

Q. During the months you weren't in Trenton where were you? A. I might have been in Freehold for a time.

Q. What were you doing, do you think, during those times in 1930? A. During those times in 1930?

Q. Yes. A. Well, I wasn't doing anything.

Q. You weren't doing anything? A. No.

Q. In 1931 where were you? A. 1931? I was in Trenton.

Q. All year? A. Not all year.

Q. In 1932. A. 1932, yes, all year.

Q. When were you convicted? A. I was convicted in 1931.

Q. Well, as the result of your conviction where did you go?

Mr. Reilly: I object to that. I think that he is bound by his answer that he was convicted, and I assume that it was offered only for the

purpose, under the rule, that it might affect his credibility if the jury saw fit.

The Court: Yes. But—

Mr. Reilly: The details, where he spent the time, where he sentenced, I think are immaterial and incompetent.

The Court: Well, I suppose it is competent for him to show, for him to be required to tell where he was convicted, in what jurisdiction.

Mr. Reilly: That may be so. Beyond that—

The Court: That I assume is the purpose of the question.

Mr. Wilentz: The purpose of the question now, if your Honor please, is an attempt to attack his credibility as to his testimony as to where he was in 1931. He says he was in Trenton all the time. Now, I want to see if he was.

The Court: And how do you propose to show that?

Mr. Wilentz: Ask him where he was following his conviction.

The Court: Yes.

Mr. Reilly: Oh, following his conviction?

Mr. Wilentz: Yes.

Mr. Reilly: But I don't think the details of his sentence and—

Mr. Wilentz: No, I don't want the details.

Mr. Reilly: Or where he spent the time—

Mr. Wilentz: Just for the purpose of attacking his credibility on the other score.

The Court: You may proceed.

By Mr. Wilentz:

Q. Where were you after your conviction? A. Home in Trenton.

Q. Were you in Rahway at any time? A. Yes, I was in Rahway.

Q. What year? A. That was in 1931.

Q. Well, that is what I have been asking you about now. Why don't you tell us, please? A. Well, I wasn't in Rahway for no long time, only for a few days.

Q. Rahway isn't in Trenton, is it? A. I told you, said I wasn't in Trenton, I said leave 30 or 60 days out of there, didn't I?

Q. You said you might have been in Freehold those 30 or 60 days, you didn't say anything about you might have been in Rahway, did you? A. You didn't ask me where I was.

Q. I have been doing that for ten minutes, asking you where you had been. A. Well, explain yourself.

Q. When you left the South to come to Trenton, under what circumstances did you leave? A. What do you mean, what circumstances?

Q. Well, were you being sought? A. No, sir; nothing against my record in the South, whatsomever.

Q. The time that you say you were in Rahway, was that the result of a conviction for assault and battery? A. No, sir.

Q. That was not, was it? A. No.

Q. Was it on another conviction? A. On another conviction.

Q. So there were two convictions? A. Yes.

Q. Well, now, you have sworn here before there was only one. A. I did not swear; I says a couple; you asked me was I ever convicted of a crime and I told you yes.

Q. Yes, and I— A. You didn't ask me how many.

Q. I didn't? A. No, sir; we may not—

Mr. Wilentz: May we refer to the records, of your Honor please?

The Court: Yes.

Mr. Wilentz: Right early in his testimony. I think I have it here.

By Mr. Wilentz:

Q. While we are waiting, let me ask you, how many hours did you say you were in the Lindbergh home? A. I was in there about three or four hours, I guess, to the best of my knowledge, before I ever got back on the job.

Q. Three or four hours will answer the question. A. From the time I left the job.

Q. What time of the day was it and what day was it? A. It was eight o'clock when I was taken off my job, eight o'clock in the morning.

Q. And you left about 11 or 12, something like that? A. That is when I got back on the job, yes.

Q. So you were in the place about three hours? A. Altogether, from the time I left the job, yes.

Q. Two hours, would that be better, that you were in there? A. Yes, that would be better.

Q. And during that time you were being questioned? A. Yes, I was asked questions, yes.

Q. And one of the questioners was a State Police officer? A. Yes, I suppose he were.

Q. What? A. Yes, I guess so. Some of them was dressed in civilian clothes. There were so many around there—

Q. Can you pick out the State Police officer who questioned you? A. I might. If he was in here I could.

Q. You could? A. Yes.

Q. Have you seen Colonel Schwarzkopf's picture in the paper? A. Colonel Schwarzkopf?

Q. Yes. A. Yes, I have seen his pictures in the paper. I think I have, I am not definite about that.

Q. Yes. Well, you said before you didn't know whether it was him or not. Do you see the man in the room that questioned you, the State Police officer?

Mr. Reilly: You can stand up and look all around the room.

Q. Yes, you can come down, walk down if you think you can see him. A. (The witness steps from the witness stand.) There is one right there. I think that he was there at the time.

Q. Which one? Come down and point him out. A. This guy right here (indicating). That guy right there.

Mr. Wilentz: All right. Stand up, sir. What is your name?

(The person addressed: Sergeant Kelly.)

Mr. Wilentz: Kelly. All right.

Q. Anybody else? A. Well, I tell you, at that

time I was so excited I couldn't hardly—I couldn't remember. You know how it was, you know I was excited that morning too when I was up there getting questioned.

Mr. Reilly: May we have it indicated on the record, if the Court please, for the record just who the individual was that the witness indicated?

Mr. Wilentz: We have put his name down; when I get through with the examination, if you want to add to it, it is all right.

The Court: Yes. Somebody announced that it was Sergeant Kelly.

Mr. Wilentz: Kelly. I announced that.

Mr. Reilly: Yes, but is he a member of the State Police or what?

The Court: Oh.

Mr. Reilly: That is what I ask, for the purpose of the record, to have indicated.

The Court: Is it going to be necessary to introduce proof with respect to that or can it be admitted that he is a member of the State Police?

Mr. Wilentz: Yes.

The Court: Is it admitted?

Mr. Wilentz: Yes.

Q. Don't you know, as a matter of fact, that Sergeant Kelly never spent one minute on the Lindbergh case? A. Well, I don't know who spent any minutes on it.

Q. I am talking about the man that you just designated. A. I don't know, but I seen him up there.

Q. You don't know but what? A. I seen him there.

Q. You "seen" that man? A. Yes.

Q. Is that what you mean? A. Yes.

Q. You are sure of it? A. I am pretty sure of it, but a glimpse of the man at that time in the excitement that I had up there when they was questioning me and saying this to me and saying the other thing to me, I can't hardly recall my remembrance back.

Q. That's all right. Then why do you say it is that man? I am not quarreling with you if you can remember or if you can't; but if you do say this is the man I want to know whether you are certain of it. A. That resembles the guy.

Q. Sir? A. That is one of the guys that was talking to me too.

Q. That is one of the guys? A. Yes.

Q. Now, when you told the Mt. Rose Police—what was the name of the town? A. Rocky Hill?

Q. Didn't you tell them it was a truck? A. No, sir, I did not. I told him it was a suburban car.

Q. Didn't you tell him it was a truck? A. I told him it was a suburban car.

Q. Did you tell them it was a little truck? A. No, sir, I told them it was a suburban car.

Q. Now let me refer to this testimony that we were talking about a little while ago, about your conviction:

"Q. Have you ever been convicted of a crime? A. Yeah.

"Q. How many times? A. A couple of times—no, one time.

"Q. What happened the other time?

"Mr. Reilly: I object to the 'other time.'

"Q. Well, weren't you convicted the second time? A. I was convicted of assault and battery, yes.

"Q. Assault and battery? A. Yes, sir, I certainly was.

"Q. Was it assault and battery? A. Yes.

"Q. On a woman? A. No."

Q. Weren't you convicted of another crime of assault and battery on a woman? A. Yes, I was convicted of a crime, yes.

Q. An attack on a woman, wasn't it? A. No, I did not.

Q. Well, that is what you were convicted of. A. My lawyer told me to plead not guilty to it.

Q. To the charge of— A. Carnal abuse—wanted to know what it was.

Q. Now you have told us where you were from 1929 to 1930, and you placed the thing as being Trenton. As a matter of fact, were you in Rahway in 1929 at any time or in 1930? A. No, not 1929. I was there in 19— let's see now, when was it? It was 1930, I think it was, or '31. I disremember now. 1930 or '31.

Q. Well, let's get away from that for a minute. Where were you in 1931? A. Well, from the time that I spent time there, what time I did spend there in that prison, I didn't spend very much, about four or five days, maybe a little longer, in Rahway, then I got out of Rahway.

Q. Were you recalled? A. Recalled. Came right back home. Then I went to working in Princeton on the reservoir.

Q. Yes. A. That was in 1931. That is when it was.

Q. What was in 1931? A. That I was recalled out of Rahway.

Q. What do you mean, taken out of Rahway? A. Yes.

Q. How many times were you in Rahway? A. Only one time.

Q. Where were you in the second conviction? A. The Workhouse for assault and battery.

Q. Where? A. Mercer County Workhouse.

Q. How much time did you spend in the Mercer County Workhouse? A. 23 days.

Q. What year? A. That was in 1931, I believe, yes, 1931—

Q. Well, if you can't remember— A. I can't remember just what date it was.

Q. You can't remember when you were in the Mercer County Workhouse? A. No.

Q. Do you remember the year? A. What do you mean, what year you mean?

Q. That you were in the Mercer County Workhouse. A. Yes, I can remember the year.

Q. What year was it? A. I was in the Workhouse this year.

Q. This year too? A. This year, 30 days. That is what I was in there.

Q. Is that the time you are talking about the Mercer County Workhouse? A. No, but you were asking about what year.

Q. Were you in the Mercer County Workhouse more than once? A. Yes, twice.

Q. This year and 1931, is that it? A. I can't remember the year that I was up there in the Mercer County Workhouse. This year I got 30 days in the Workhouse innocently.

Q. I mean the other time. I wasn't inquiring about this time. You volunteered that. I mean the time you were convicted of assault that you told us about. A. Assault and battery.

Q. What year was that? A. That was 1931 or '32, I disremember; I wouldn't say definitely. I

would go back again too if a man drawed a knife on me.

Q. In 1929 you say you were in Trenton? A. Yes, I was.

Q. All year? A. Yes, all year, practically all year.

Q. Were you in Irving, Pennsylvania, in that year? A. In Irving, Pennsylvania?

Q. Yes. A. In 1929?

Q. 1929, Irving, Pennsylvania? A. No, sir.

Q. Did you have any difficulty there that you remember? A. No, sir.

Mr. Reilly: I object to that.

The Court: The objection is sustained.

Q. Did you ever live in Irving, Pennsylvania? A. In Irving, Pennsylvania, no, sir.

Q. Did you ever visit in Irving, Pennsylvania? A. No, sir, not in Irving, Pennsylvania, no, sir.

Q. Irwin? A. What?

Q. Irwina, I-r-w-i-n-a, or I-r-w-i-n? A. No, sir, no, sir.

Q. Never lived there? A. No, sir.

Q. So far as you can ever recollect, you never spent any time there? A. No, sir.

Q. If you spent some short period there, you would remember it, wouldn't you? A. Yes, sir, I would.

Q. Now, in 1932, by whom were you employed? A. In 1932? Social Service.

Q. What? A. Social Service.

Q. Who engaged you, do you remember? A. Well, I got a job from the Social Service, from Miss Lacy.

Q. Miss Lacy? A. Yes, or Miss Black, either one, I don't know which one of them.

Q. Now, will you describe this car again and an-

other two questions and then we will be through. What kind of a car did you say it was, sir? A. Well, it was a dark blue suburban car, what I would call a suburban car.

Q. Well, what is that with relation to a coupe or a sedan or— A. No, sir, it is nothing like, no sedan.

Q. Well, what is it like? A. Well, I will tell you what it is like. You seen these—

Q. Is it a pleasure car? A. Well, I suppose you could use it for a pleasure car, you know, you have seen these cars like teachers' cars, like the State School has got, something like that.

Q. The station wagon you mean? A. I don't know. I call it a blue suburban car, it is a seat here and seat here and three or four seats in the car, see what I mean?

Q. Yes, it is a little truck, isn't it? A. Well, I suppose you could make a little truck out of it.

Q. Yes. A. It is what you call a blue suburban car.

Q. And the seats were torn out of it, weren't they? A. The seats was taken out, yes.

Q. Well then, there were no seats there? A. Only one seat where the two was sitting there.

Q. Only one seat. Had the seats been ripped out, so far as your observation could tell? A. Yes, so far as I could tell.

Q. Did it look as though it was ripped out? A. No, it wasn't ripped out.

Q. Was the ladder covered? A. The pasteboard box was over the top of it.

Q. Over the entire ladder? A. No, not just over the entire ladder.

Q. Over part of it? A. Just a part of it.

Q. What kind of a ladder was it? A. Well, same like that ladder (turning around in chair and indicating).

Q. Never mind looking at that, just tell me what

kind of a ladder it was, please? A. Well, I just can't tell you exact what kind of a ladder it was.

Q. Well, I don't want to know exactly what kind of a ladder it was. I want to know something about the ladder. A. Well, I have told you the best that I can know to tell you about it.

Q. Tell me again, please, I don't remember your telling me at all. A. You mean how long the ladder was?

Q. What kind of a ladder? Tell me anything at all about it as you remember it. A. Well, all I could remember was just a ladder and a box on top of it.

Q. Yes. Can you remember anything about the ladder at all except that it was a ladder? A. Yes, I noticed it was a ladder, the way I thought it was, I thought it was somebody was going to do some work on Mr. Lindbergh's home.

Q. Yes. What kind of a ladder, can you tell us anything at all about it? A. Well, I can't tell you nothing, only it was just a ladder, that is all.

Q. Just a ladder? A. (Witness nods head.)

Q. Now, I want to give you an opportunity, sir, and I want to ask you again if you cannot tell us anything about that ladder, except that it was just a ladder? A. Well, what do you mean for me to tell you anything else about it?

Q. I mean can you describe it? A. Well, it is a ladder, just about like this one here.

Q. What kind of a ladder was it, as you remember it? A. Just a plain ladder, it was in the car.

Q. Well, just a plain ladder? A. Just a plain ladder.

Q. Never mind looking at that ladder now. You just answer the question. We will give you a chance to look at it. When you keep pushing your hands around and saying just a plain ladder, what is that supposed to indicate? A. Well, it was just like a

ladder, like you have a step ladder or something, and that is about the way it looked to me.

Q. Well, was it a stepladder? A. No, it wasn't a stepladder.

Q. How do you know it wasn't a stepladder? A. Because it would look just about like a plain one—you can lay that ladder down yourself and look at it.

Q. I will do that, maybe, later on, but I want to know what you saw in that automobile on that afternoon, in which automobile Mr. Hauptmann was absent. Now let me ask you, what kind of a ladder was it? A. Well, I—

Q. You can't tell anything about it? A. I couldn't swear definitely what kind of a ladder it was. You couldn't do it even yourself.

Q. All right. Well, maybe I couldn't. That's why I am not testifying. You can't remember anything about the ladder, can you? A. Yes, I can remember seeing the ladder in the car.

Q. Yes, sir, but you don't remember anything about it that would describe it in any particular. A. Well, I don't know hardly how to get at it to describe it, what you mean.

Q. Well, you saw this object in this car and when you looked at it you saw something, didn't you? A. I saw it, yes.

Q. And you saw something that looked like a ladder. A. Yes.

Q. Are you sure it was a ladder? A. I am sure it was a ladder.

Q. You may have been mistaken? A. I am sure it was a ladder, with this here box over it.

Q. You may have been mistaken, isn't that so? A. No, I couldn't be mistaken when I seen it.

Q. What was there about it that made you sure it was a ladder? A. You could see the ladder there; you could see part of it.

Q. I couldn't. What did you see about it? A. That is what I see about it.

Q. What did you see about it? A. I seen the steps on it.

Q. What steps? A. Just the pieces on the ladder, just like—just like it would be to—you know how a ladder is. It is like a—you would have—the way it seemed to me, like it was a ladder that you could slide up and down, slide it apart.

Q. It was the sort of ladder you had seen many times, you mean? A. No, it wasn't. It wasn't one of these other ladders. I couldn't swear definitely about how it was.

Q. It was just like any other ladder you had seen, wasn't it? A. Yes, just like a lot of ladders I had seen.

Q. Was it a large ladder or a small ladder, was it a black ladder or was it a white ladder? Was it a thin ladder or was it a heavy ladder? A. I don't know how heavy it was, nor I don't know how it was —it was no black ladder.

Q. Was it a white ladder? A. It was a kind of—

Q. Was it a green ladder? A. No, it wasn't no green ladder.

Q. Was it a white ladder? A. No.

Q. Was it a wide ladder? A. No, it wasn't a wide ladder.

Q. How tall was it, how long was it? A. The ladder I seen in the car, it was, I imagine about ten foot long, eight or ten foot long as near as I can guess at it.

Q. Eight or ten feet long? A. I can't guess exactly.

Q. I don't want too much guessing, this is important. Give us your best judgment without a guess. A. I would say about eight or nine foot long.

Q. You would say about eight or nine foot long. Was it a ladder of sections? A. It was a ladder just

like—yes, just like you would pull it apart like.

Q. One section was eight or nine or ten foot long, that is your best judgment? A. Yes.

Q. And, of course, it was on the floor of this car. A. Yes.

Q. And the floor of the car, of course, was at least eight or nine or ten feet long. A. Yes, sir.

Q. Behind the seat there was at least ten feet in the car? A. Yes, I imagine it was.

Q. You imagine it was. Was it tied together with ropes? Was it tied together with anything else? A. No, I didn't see anything, any ropes tied to it.

Q. The sections. When you saw this ladder, you saw it in an automobile. A. It was in a blue suburban car.

Q. Were you in the automobile? A. No, sir, I wasn't.

Q. From what part of the automobile did you look at it? A. I had my foot right on the front of it and leant right over into the car where the men were at.

Q. Between you and the ladder were the two men or one of them? A. No, the two men were setting in the front, one setting here and one under the steering wheel. In the back was this here seat and here was the door that had no curtains or nothing else on it.

Q. We will get to the curtains in a minute. Where were you? A. I was standing right beside of the door, beside the driver—not the driver but the other man.

Q. On the right or left side? A. On the right side.

Q. All right, now, we will assume that we are traveling in that direction toward the rear of the courtroom. A. Yes.

Q. And where you are seated now was seated one of the men in the automobile. A. That is right.

Q. The other man was to your left. A. That is right.

Q. That is, not your left, but to the left of the passenger we just talked about? A. No, but I had my face turned—

Q. You were to the right, weren't you? A. Yes. If you were headed that way with an automobile, I am headed this way with my back kind of to the front of the car. (Standing up and illustrating.)

Q. Assuming I am the driver of this automobile— A. Yes.

Q. And I am facing or heading in the direction in which I now face. A. That is right.

Q. Your position with relation to that man would be to the driver's right, wouldn't it? A. It would be—I would be facing you just like this (indicating).

Q. Just like that. A. Yes.

Q. Almost in front of me but off to an angle. A. I would be in front of you.

Q. So you would be facing the inside of the car, past the driver. A. Just like here would be the driver and here I would be standing right here, just like this, looking right into your face.

Q. That chair there indicates the position the driver would be. A. Yes.

Q. And you are indicating the position leaning toward him. A. Leaning right on the car looking in their faces.

Q. That gives you the view of the back of the car. A. Yes, the view of the back of the car.

Q. That is the view you had when you were looking at this contraption you called the ladder? A. I could see it from this side of the car.

Q. From the other side? A. No, from the same side I was on.

Q. What are you getting over to the other side for? A. I was just giving it to you as they come in.

Q. Were you nearest the driver or the other man?

A. I was nearest the man that wasn't driving. I was on the side of the man not driving, with my foot on the running board.

Q. You had your foot on the running board? A. Yes.

Q. Now, you looked over and did you see this ladder in back over his shoulder? A. No. You could see it, you could see it right from along the side.

Q. From the side? A. From the side, yes.

Q. And there you were for five minutes looking at the ladder and looking at the men: isn't that so? A. Not looking at it for five minutes; I was talking to them for four or five minutes.

Q. Well, then, you didn't look at the ladder for five minutes, did you? A. I looked at it, just taking a glance, a slight glance at the ladder.

Q. And of course in that glance you couldn't tell very much about the ladder, could you? A. I could tell it was a ladder.

Q. But that's all you could tell? A. Yes.

Q. I mean you couldn't tell anything particularly as to how it was built, so as to be able to recognize it, could you? A. Well, I could, just to tell—just imagine how the ladder was, you know; I could see the ladder and it looked to me like it was one of these slide ladders.

Q. What I want to know is, could you see the ladder sufficiently so that you could identify it and tell something about it, how it was built? A. No, I couldn't.

Q. No. A. I couldn't tell you how it was built.

Q. No, certainly not. The length or the width of that ladder you hadn't observed sufficiently to be able to tell, isn't that so? A. I wouldn't—I wouldn't swear to the width of the ladder.

Q. And you wouldn't swear to the length of the

ladder, either, would you? A. Yes, I could swear practically to the length of the ladder.

Q. You want this jury— I will withdraw that.

Q. You now want to state that so far as the length of the ladder was concerned you could swear to it? A. Just about. I wouldn't swear definitely to the length of the ladder.

Q. Well, then you don't want to swear definitely to the length of the ladder? A. I wouldn't swear definitely to how long the ladder was.

Q. So that your observation of the ladder did not permit you to tell the width nor the length; isn't that so? A. No, not the width nor the length; I couldn't swear to that.

Q. Not the width nor the length. And the power of your observation wasn't sufficient to reveal to you the color of the ladder? A. No, I couldn't—the ladder was painted at all.

Q. Answer the question. A. The ladder wasn't painted at all.

Q. You started to say, "No, I couldn't." Did you mean that?

Mr. Pope: He said the ladder wasn't painted.

Q. Did you mean "No, I couldn't"? A. No, the ladder wasn't painted at all.

Q. Your power of observation wasn't sufficient to reveal to you the color of the ladder, isn't that the fact? A. Well, I wouldn't swear definitely to the color, only all I could see was just a brown piece of wood, brown ladder.

Q. Would you swear definitely as to how the ladder was built? A. No, I couldn't swear definitely to how the ladder was built.

Q. Could you tell anything about it, about where the grooves were? A. No, I couldn't do that.

Q. Could you tell whether it was a section ladder or could you tell whether it was a stepladder? A. All I could tell, it was just a ladder that looks to me like, you see these ordinary little ladders.

Q. Ordinary ladders? A. Yes.

Q. It looked to you like an ordinary ladder? A. Yes.

Q. Did it look like an ordinary stepladder? A. Well, it looked to me like a ladder that you—

Q. Did it look like a stepladder?

Mr. Fisher: If your Honor please, he should be permitted to answer the question.

The Court: The question is: "Did it look like a stepladder"? Now what is the matter with that, Mr. Fisher?

Mr. Fisher: He started to say it looked like an extension ladder, but Mr. Wilentz cut him off.

Mr. Wilentz: You are saying that, not he.

The Witness. He is right about this.

Q. I said "Did it look like a stepladder"? and all he needs to say is yes or no. A. It is just like a ladder that you pull in and out. It was—that is the kind of ladder it was.

Q. What made you make that observation? A. Well, it just—what made me make it because I seen it.

Q. What did you see? A. The way the ladder looked.

Q. What did you see that made you make that observation just now? You don't remember, I suppose? A. What did you mean "see"?

Q. What did you see that makes you now make the observation after Mr. Fisher's comment that it looked like something you pulled apart or whatever it was you said? A. No, it wasn't—I was saying that before.

Q. Well, what was it about the ladder, that is what I want to know, that you observed that day? A. It wasn't nothing, anything that I observed about it, only it was a ladder, that was all.

Q. Now you got into the Lindbergh home and you got in through the front door, didn't you? A. I don't know whether it was the front or side door.

Q. You got in through a door? A. Yes.

Q. Was that the door on the side where the ladder was placed? A. Yes, on the same side the ladder was placed.

Q. The same side. You walked in the house, wasn't it? A. Yes. No, the ladder was on that end.

Q. Never mind "that end." A. I came right around on the side and walked in.

Q. When you came to the house you walked in the door? A. Yes.

Q. Was the ladder up against the building, on that side of the building? A. The ladder was up against the building on that side (indicating).

Q. A different side? A. On that side (indicating).

Q. Do you know anything about directions there, north, east, south and west? A. No, I don't.

Q. You saw that ladder, didn't you? A. Well, from a distance I did.

Q. What was the distance? A. Well, I'd imagine, it might be not quite as far as from here to the back end of the courtroom.

Q. From here to the back end of the courtroom? A. Maybe not that far.

Q. About that. A. Well, I wouldn't say definite just how far it would be.

Q. Well, you are the one that is giving the dimen-

sions, so give us your best recollection and your best judgment about it. Would you say it was about to where the clock is? A. Yes, maybe less.

Q. About that distance? A. Maybe less than that.

Q. Well, would you say from this table to the clock? A. Yes, about that, I guess.

Q. About that?

Mr. Reilly: How many feet for the record?

Mr. Wilentz: How about having the Sheriff or one of the officers measure it.

Mr. Reilly: Thirty-five feet?

Mr. Wilentz: Thirty-five feet.

Mr. Reilly: 35 or 40 feet?

Mr. Wilentz: Let's say 38 feet. We will agree on that.

Q. And you were passing 40 feet away and you saw ladder up against the building? A. Yes, up agin the building.

Q. A big tall ladder? A. Yes.

Q. A connected ladder? A. Yes, there was a ladder up there—I didn't—there was so many people around there, I was so excited that day I didn't take a good look at the ladder.

Q. You didn't take a good look at the ladder, and of course you don't know what kind of a ladder it was, do you? A. No, not at that time.

Q. And that ladder you saw up against the Lindbergh home, how tall and how high was it? A. That ladder up to Lindbergh's home, to the best of my

knowledge, it would be around about, maybe 30 foot, about 25 or 30 foot.

Q. That is—that was your best judgment? A. My best judgment.

Q. You had never seen it before and you have no way telling now how high it was: is that so? A. Yes, might have been less, I wouldn't say definitely how long the ladder was.

Q. You never had seen that ladder before and so you don't know, is that so? A. That is true.

Q. That is correct? A. I don't say definitely how long it was.

Q. All right, sir.

Mr. Wilentz: Pardon me, just one question, Mr. Reilly.

Q. You know Colonel Lindbergh, don't you? A. Yes, sir. This is the second time I have seen him personally.

Q. You see him in the courtroom? A. Yes, sir.

Q. And you swear that you shook hands with Colonel Lindbergh? A. I certainly do; or he shook hands with me.

Q. Yes. A. Yes.

Q. Did he ask you for permission? A. What?

Q. You say he shook hands with you, not you with him. What do you mean by that? A. There was another fellow here who was in that room at the time, he said, "Well, meet Colonel Lindbergh," —he called him that way, somehow or other, and I shook hands.

Q. Called him that way somehow or other? A. You know, that is the way he called his name, "You know Colonel Lindbergh," and he shook hands with me and thanked me for my informations that I give him that day.

Mr. Wilentz: All right. Take the witness.

Re-Direct Examination by Mr. Reilly:

Q. Now you had never seen the ladder in the car extended? A. No, sir, I didn't.

Q. And it was the only wagon, automobile, truck or anything else that stopped you March the 1st, with a ladder in it, and the driver asked you the direction—

Mr. Wilentz: Just a minute. Go ahead Mr. Reilly: I just wanted to ask the witness not to answer until I have a chance to participate in the proceedings.

Mr. Reilly: All right. Do you want to object?

Mr. Wilentz: I do want to object.

Mr. Reilly: All right. I will withdraw it and start over again.

Mr. Wilentz: All right.

Mr. Reilly: And give you a fresh start.

Mr. Wilentz: Give us both a fresh start.

Mr. Reilly: I didn't know you were drinking while I was asking the question.

Q. Was it the only ladder that you saw in a car on March the 1st? A. Yes, sir, it was.

Q. And were the men in that car the only people on March the 1st that asked you to be directed to Colonel Lindbergh's estate? A. Yes, sir, they were.

Q. And whether you were convicted once or forty times, you were in Colonel Lindbergh's estate on March the 2nd? A. March the 2nd.

Q. Did they question you about the ladder and the people you saw? A. Yes, sir, they asked me and I told them I seen a ladder in the car.

Mr. Wilentz: Just a minute now. Of course this is not re-direct.

Mr. Reilly: Yes, or no.

Mr. Wilentz: All right.

The Court: Are you pressing any objection?

Mr. Wilentz: No I am not.

Mr. Reilly: Well, I am through with the witness.

By Mr. Wilentz:

Q. You live in Trenton, do you now? A. Yes, sir, I do.

Mr. Wilentz: All right, sir.

(The witness is excused.)

Mr. Reilly: It is now my purpose, if your Honor please, because of the absence of other witnesses, to follow up this chain, to call one of my handwriting experts. May I have a ten-minute adjournment while we put up the exhibits of Mr. Osborn, on the wall?

The Court: Yes. We will take a recess now.

(At 3:12 p. m. a short recess was taken.)

(3:30 P. M.)

(After a short recess the jury was polled and all jurors answered present.)

Mr. Reilly: I am going to call Mr. Trendley.

Mr. Wilentz: If your Honor please, while Mr. Trendley is taking the stand may I be excused for an hour or so? Mr. Lanigan is going to conduct the examination. I am sure there is no objection.

Mr. Reilly: Entirely satisfactory to me.

The Court: Surely.

JOHN M. TRENDLEY, sworn as a witness in behalf of the defendant:

Direct Examination by Mr. Reilly:

Q. Mr. Trendley, where do you live? A. East St. Louis, Illinois.

Q. And what is your profession? A. Examining disputed documents for the last forty—since 1895, forty years this May.

Q. And have you testified in court many times? A. Somewhere around 387 or 388 times.

Q. And will you give a list, a brief list of the important cases you have testified in. A. Patrick Rice; Molineux Murder Case, New York; Rudner Mallet case, Canton, Ohio; Baby Keet kidnaping and murder case, Marshfield, Missouri; the Magarian murder case at Belleville, Illinois; Viviana Santino Kid-

naping case, St. Louis; Thomasson kidnaping case, St. Louis; the Berger gangster murder case in Benton, Illinois; the United States Naturalization Frauds in Federal Courts, St. Louis, Missouri; the Shane Forgery case, Humboldt, Tennessee; Frederichs Forgery case, Colorado Springs, Colorado; the Ida B. Hambrick Will case, Chicago, Illinois.

Q. And that has covered a period of about 40 years? A. Forty years.

Mr. Reilly: I understand that the State does not concede the qualifications of this witness.

The Court: It does not?

Mr. Reilly: If they desire to interrogate, may they do it now?

The Court: Surely.

By Mr. Lanigan:

Q. Mr. Trendley, you are an imitator of handwriting, are you not? A. Yes, sir.

Q. And you claim that you can speedily imitate a signature, do you not? A. Not speedily. Sometimes I could offhand, but sometimes it takes time. I have just used that in cases sometimes.

Q. Well, you claim to be able to produce spurious writings, that will deceive a witness do you not? A. I have done so.

Q. You have done so? In how many instances have you done that? A. Well, in the Patrick Rice case, that is thirty years ago, I think I wrote nine signatures of old man Rice.

Q. Designed to do what? A. Test the ability of the experts.

Q. To prove that the will was genuine? A. Yes.

Q. And how long did you spend on that? A. Oh, I guess I spent a month in St. Louis on that before it came on.

Q. And you produced nine spurious signatures of the signature on the will? A. Yes.

Q. And after your testimony in that case, in which you swore that those signatures were genuine, did not the courts of New York set aside that will as a forgery? A. Yes. But Patrick Rice was never convicted.

Q. Do you recall testifying in the case of U. W. Thomason in the city of St. Louis. A. Yes.

Q. On November 16th, 1932? A. Yes, sir.

Q. In that case do you recall testifying as follows:

"Q. Now, in the trial of that Thompson case you were able to imitate old man Thompson's signature so accurately that you fooled the experts on the other side, weren't you?"

A. Yes.

Q. The answer was "Yes, sir." A. Yes, sir.

Q. Is that correct? A. Yes, sir.

Q. "You have practiced that art for the last thirty years, haven't you, Mr. Trendley?"

A. I guess I have.

Q. And the answer was: "I don't know. It seems to be natural with me.

"Q. But is it a gift? A. Yes.

"Q. I believe you testified for Mr. Cullin just a short while ago that you spoke of the art of the forger or the imitating of handwriting and said 'I am an expert at that myself,' and you answered, 'I have been so called in New York and Chicago.'"

Q. Is that correct? A. I was.

Q. "Well, as a matter of fact, you never anywhere in the whole 38 years of your experience have met a forger who can do as neat a job as you do, have you"? To which you answered— A. Well—

Q. "I don't know." Then the question came: "You can do it better than anyone you ever met, can't you"? To which you answered: "That would be a kind of egotism on my part, if I was to say I was the best."

"Q. Do you know a better one? A. Yes, old Becker.

"Q. Ralph Becker? A. No, he couldn't write anything. I mean Becker the forger.

"Q. Oh, who was Becker the forger? A. He was the man that forged and raised a draft of $22,000 on a bank and the banking association wanted to pay him $5,000 a month to be good.

"Q. How long ago was that? A. I guess eighteen years ago. He died like all of them in the Penitentiary."

Q. Did you testify as follows there? A. Yes.

Q. Now, you have been frequently mistaken, haven't you, in the cases you have testified in? A. Oh, I have, yes, I don't claim to being an authority over everybody.

Q. Do you ever recall going on the witness stand as an expert, being shown a document, testifying after examination it was a genuine document and then going out to lunch and coming back after lunch and under oath testifying that the document you swore in the morning was a forgery was then genuine? A. No.

Q. You don't? A. No.

Q. Did you testify in the case of Olmer against the Southern Manganese Company? A. Yes, I can explain that case to you.

Q. All right. Now, let me refresh your recollection. I quote from the record of the Circuit Court of the County of St. Louis, May Term, 1927, in the case of Edward Olmer, plaintiff, versus the Southern Manganese Steel Company, and I hold in my hand an official transcript of the testimony sworn to by the

stenographer, and I ask you if in that case you were asked the following questions and made the following replies:

"Q. Now, Mr. Trendley, do you ever recall testifying in a case where you first gave one side an opinion that the signature was genuine and then without realizing it, you gave the other side an opinion that it was a forgery? A. I do.

"Q. Do you recall testifying in such a case as that? A. Yes, sir.

"Q. Have you ever done that more than once? A. That is about all I remember. That was a case where I examined the paper in the Probate Courtroom on a dark rainy day and afterward I had a photographic copy taken of it in the light and I saw it, but I didn't testify that way. I didn't testify in that case.

"Q. You gave two different opinions about the same handwriting in the same case, is that right? A. Yes.

"Q. So you were not always certain about your opinion? A. No, I can be mistaken." Is that correct? A. That is right.

Q. Further along in that testimony you were then shown a card from the American Steel Foundry file, do you recall that? A. Yes.

Q. All right. "Question: All right, now, we will take a look at another one of these application cards of the American Steel Foundry Company which is dated January 3rd, 1921, and ask you to look at the Ed. Olmer signed on that, and ask you whether you would say that is also Mrs. Olmer's signature? Answer: (Examines.) Question: They are both his signature? Answer: No, they are both his signature. I see that now. Question: They are both his signature? A. Yes. Question: You are willing to change your testimony about that now? A. Yes, sir."

Q. Did you so testify? A. I did, and I did change my testimony the next day.

Q. After having first testified that the writing was what? A. The man's writing. I had been on a case at noon that day in St. Louis. I was on the stand at 12:30—

Q. What did you testify first? A. Well, I think—

Q. Did you testify that it was his signature or the wife's signature? A. I think I testified it was his signature, if I am not mistaken.

Q. His signature. You testified— A. They both wrote alike. He was crippled and she got to writing his certain hand.

Q. You testified it was his signature. A. Sir?

Q. His or hers? Which did you testify first? A. I don't remember, whichever one was put up to me, I don't remember.

Q. Well, what caused you to change it? A. I had been on a case in St. Louis at 12:30, on the witness stand. The telephone bell rang. I was on the Hull-guide Tanker.

Q. On the what? A. On the case of the Hull-guide, a tanker sunk at Baton Rouge, and there was a suit of $305,000.

Q. What had that to do with it? A. And the telephone bell rang and I answered the phone and it was Clayton called up, the Clayton County Court. They wanted me to come out there. That was about twelve miles. I had an engagement in East St. Louis at 3:30 and this was 11:30 and when I got out to the court there, it was about three o'clock when I got on the witness stand and I didn't see anything at that time, I was so worried about my engagement on the other side, missing that, and coming from one court to the other I just was confused and, after I got off the stand, I explained to the lawyer. I said "Come over here tomorrow morning." I said, "I want to go over those things again."

Q. In other words, you testified without looking at it? A. I was shocked. I didn't know what to do. I just passed it up.

Q. Do you customarily testify that way? A. No, it was just an unusual circumstance.

Q. I see. Well, now, let's see what you said about that:

"Q. And it is a characteristic which is found on each one of these checks on defendant's Exhibit 21, isn't it? (Hands Exhibit 21 to witness, who examines same.) Where the signature of 'E. Olmer' is written and the capital E starts in the back?

"A. Yes, sir; it is.

"Q. It is found on those? A. The E's do follow all the way through.

"Q. They are the same; and you note the same condition prevailing in these time card checks of the Scullin Steel Company, do you not, that same tendency, except this is written with the lead pencil, that perhaps isn't so pronounced, the back curve or curl of the E?

"A. (Examines) The same E.

"Q. The same R, too, is it not?

"A. (Examines) Yes, sir; that looks like the same E and R.

"Q. It looks like the same thing, doesn't it? Now take a look at this Defendant's—take a look at the Defendant's Exhibit 14; do you see the same characteristic upon the Capital E there? (Hands Exhibit 14 to witness, who examines same.) Do you not, in the signature of E. Olmer?

"A. (Examining Exhibit 14.) In the E, yes.

"Q. Also the same tendency in the 'r,' is there not, a sort of backward jerk there?

"A. Yes, that is his 'r.'

"Q. Now, notice this other—

"A. When I saw that yesterday I said that was Mrs. Olmer's, but I was mistaken."

A. I knew I was all up in the air; I admitted it.

Q. What do you mean by being up in the air? A. I was nervous, excited; I had one thing on my mind, to get over to East St. Louis and take the train out to Clayton, which interfered with all my plans.

Q. Well, do you frequently go up in the air? A. No.

Q. A pretty important case, wasn't it? A. They are all important to me.

Q. How much was involved in this case? A. I don't remember. It was a damage suit.

Q. For how much money? A. I don't remember.

"Q. You see you were mistaken? A. Yes, sir; she had been using the same—he has been using the same—she has been using his pen-stroke in these signatures and I just glanced at it and used it as a basis for examination of it. And that is his writing.

"Q. That is his writing on Defendant's Exhibit 14?

"A. Yes, sir.

"Q. You can't be mistaken about that now?

"A. No, sir."

Q. And then further on you were asked these questions:

"Q. Now, look—do you want to make any explanation to your testimony with respect to that paper yesterday?

"A. Yes, sir.

"Q. Tell the jury what it is.

"A. I glanced over this when they were shooting them one right after another, when I was just using the pen-stroke, and I said that was Mrs. Ed. Olmer's writing, but it is E. Olmer's.

"Q. Who do you say wrote that?

"A. Mr. Olmer.

"Q. All right. Do you want to change your testimony about that signature?

"The Court: Don't ask him if he wants to change it. . . . .

"Mr. Young: What did you want to say about it?"

It goes on down, follow along, argument, qualifications:

"The Court: You say you want to make some explanation of your testimony with regard to that?

"A. Yes.

"The Court: And you desire to change your testimony?

"A. Yes."

Is that correct? A. Yes.

Q. And then further along in the case you were asked these questions and you replied as follows:

"This is just the examination writing.

"Q. It looks like an attempt of some kind at a signature as it is on Defendant's Exhibit 14? A. No attempt.

"Q. But it leaves out the telltale characteristics which you find in Defendant's Exhibit 14, namely, the backward slant of the 'r,' isn't that true? A. Well, there is no attempt at all. It is just the examination writing.

"Q. Just the examination writing. However, a moment ago you flopped back and forth on it several times? A. Yes, and I corrected myself on that."

Is that correct? A. I guess so. I don't remember that.

Q. Now, you had advised your client in that par-

ticular case that that was the genuine signature of Olmer, didn't you? A. I did, yes.

Q. And you went on the witness stand and so testified? A. Yes. I had those papers on that case, I guess, six months before the trial, and this other case called me out there at the time I should have been across the river; I had to lose that time and I wanted to get out of there. I just went up in the air, as I say.

Q. So that after six months of those papers in your possession— A. Then I was called right—

Q. And you an expert, and you examined them, you advised your client it was a genuine signature, and you go on the witness stand and so swear? A. I did.

Q. Then you come around in the afternoon, after lunch, and change it? A. I did.

Q. As a result of which your client— A. Not in the afternoon; the next morning.

Q. The next morning. What happened to your client?

Q. What happened to your client? A. What happened to him?

Q. Yes. Did he lose the case? A. Yes, I think he appealed it. I don't know what became of it.

Q. In other words, didn't you have sufficient interest to follow it up? A. I don't know.

Q. Just let it drop there? A. I did then. I supposed it was the end of it.

Q. As an expert? A. No, I made a mistake, but I rectified it.

Q. All right. Now let's run along to the case of, the Thomasson case. I hold in my hand the official record in the case of Hugh W. Thomasson in Circuit Court of the City of St. Louis in which you testified on November 16th, 1932, is that correct? A. Yes. What case was that? I testified in six trials of that, one in the Probate Court and one in the Cir-

cuit Court, one in the Criminal Court, one in the Federal Court, and one before the United States Illinois State—

Q. Well, for the purpose of shortening this examination— A.—Supreme Court.

Q. I will narrow it down to the Circuit Court.

Q. Now in that case you were shown a number of exhibits, weren't you? A. I was.

Q. Of Thomasson? A. Yes.

"Q. And I ask you if you recognize the handwriting on that Respondent's Exhibit 705 as the handwriting of the same man that wrote the Pike's Peak letters? A. (Examining exhibit) No, I think that is Thomasson's writing.

"Q. That you think is the handwriting of Thomasson? A. Yes, sir.

"Q. Did you ever see Thomasson do any writing? A. No, sir.

"Q. Do you know of anybody that ever saw Thomasson do any writing, anybody who told you that they actually saw Thomasson write any of these papers you have examined? A. No.

"Q. Point out to the jury any differences that you can between the signature of Hugh W. Thomasson on the Pike's Peak letters before you and the signature of Hugh W. Thomasson on Respondent's Exhibit 705? A. In the pen pressure.

"Q. With those two signatures before you, you still say they are not written by one and the same person? A. Yes, sir.

"Q. You do? A. Yes, sir. There is a lack of that free cursive movement in this. It is more of—

(Thereupon a short recess was had after which the cross-examination of the witness Trendley was resumed and the following proceedings were had.)"

Q. I ask you if thereupon the following questions were submitted and you made the following answers:

"Question: Mr. Trendley, just before the recess I understood you to say you had no doubt whatever but that the same hand that wrote the 'Pike's Peak' letters also wrote these four exhibits, 126, 130, 122, and 131, that is right, isn't it? A. Yes, but I want you to understand, I just gave you some of these I haven't seen before. I just gave you a cursory examination on them to avoid taking time." A. I did.

"Question: Well, has anything occurred during the recess, any conversation between you and Mr. Young and Mr. Cullen that caused you to change any opinion? A. I haven't changed my opinion. I just say I have examined them with a cursory examination. Question: I understand. Answer: I had those other exhibits, two or three, I guess some of them two months.

"Q. I understand that too. But, as a matter of fact, you make your examination from a cursory inspection like a bank teller, don't you? A. No. When I have an exhibit to make an examination, I go through each letter with glasses, looking out for exhibits and everything else, but a lot of these letters, the general appearance sometimes looks alike. Of course if a letter was written in imitation it would be alike, it would look alike. That is the idea of a forged letter.

"Q. I want to know now whether those four exhibits you hold in your hand, are you of the opinion, still your opinion they were written in the same hand as wrote the Pike's Peak letters as you testified before adjournment? A. (Examining exhibits.) I want to look at these with a glass.

"Q. Will this do you any good? A. I have got one larger. (Examines exhibit with a small micro-

scope about the size of a fountain pen.) No, I don't think so.

"Q. You now change your testimony and say they were not written by the same hand? A. This one isn't.

"Mr. Young: Which one are you talking about?

"The Court: Down at the bottom of the page there, A-131.

"Q. You have also said that all the Pike's Peak letters were written by one and the same hand? A. Yes.

"Q. No doubt about it? A. No. Q. That was true not only of the Pike's Peak region but of all the letters from Mounds, Illlinois, and the letters from Missouri River Bluffs. A. Yes.

"Q. They were written by the same hand? A. Yes, sir.

"Q. No doubt about it? A. No, sir."

"Q. Now, I understand you. You want to change your testimony and say the same hand that wrote those letters did not write the latter marked 131.

"A. The letter 131 is not in the same writing as the Pike's Peak letters. There is a different line quality.

"Q. But you testified before the recess it was in the same handwriting.

"A. Yes, from a general look.

"Q. Take it out now and see if you want to change your opinion with respect to the other exhibits. Take it out now. You have rejected it. Now the next one, Respondent's Exhibit 126. Do you want to change your testimony as to that?

"A. I don't know yet.

"Mr. Young: What exhibit is that?

"The Court: 126.

"Question by Mr. Loughlin:

"Q. I will again ask you if that was written by the same hand that wrote the Pike's Peak letters? A. (Examines with a small microscope.) That is the same thing. There is more.

"Mr. Young: Let's see what it is.

"A. There is more seriations in the line than there is in the Exhibit 126. The line quality is altogether different.

"Q. Do you want to change your testimony as to that also? Do you? A. Yes, sir.

"Q. Take that out. You now say that was not written by the same hand that wrote the Pike's Peak letters, do you? A. Yes, sir.

"Q. See if you want to change your testimony with respect to the other exhibits?

"Mr. Young: What is the number, please.

"Mr. Loughlin: The next one is 130.

"A. It is the same thing.

"Q. (By Mr. Loughlin.) You want to change your testimony with reference to that? A. I shouldn't have looked at those without putting a glass on them. The first I have seen of these exhibits.

"Q. You still got one left. See if you want to go back on your testimony as to that.

"Mr. Young: We object to going back.

"The Court: Sustained.

"By Mr. Loughlin:

"Q. See if you want to change your testimony with respect to that.

"The Court: All right. What is that exhibit?

"A. There is a big difference in it.
"Q. A big difference? A. Yes, sir.
"Q. You changed your testimony as to that, too, now, do you? A. Yes, sir.
"Q. Which one is that, the last one? A. 122, your Honor."

In other words, with respect to the four of them which you had identified and testified to, with respect to each and every one you changed your testimony? A. He passed them before I give them a curbstone opinion and said he—

Q. As an expert, do you give curbstone opinions? A. I gave it to him as a curbstone opinion, told him I wanted to examine them afterwards.

Q. So that your opinions then are cursory and curbstone? A. No. In that case they were, when he handed them up to me. There were 1500 exhibits in that case.

Q. How about the case you had for six months. Was that cursory? A. No, I didn't have—I told you I was away from that case six months.

Q. But you changed your testimony there, too, didn't you? A. Yes, I did.

Q. All right, let's go ahead now: You were asked then the following questions to which you made the following replies:

"By Mr. Loughlin:

"Q. That was one of the documents yesterday you said you are sure he didn't write, but you are mistaken? A. Yes, I see that now. It is his handwriting.

"Q. Now isn't that true also of 577?

"Mr. Young: May we have this?"

And then there is a collokuy between Court and counsel.

"Q. Look at the one you have in your hand and compare it with these other Ruby Crawford receipts, all of which you have identified as being genuine, except two only, and see if you cannot identify that remaining one as the genuine handwriting of Hugh W. Tomlinson. What exhibit are you talking about? A. 704.

"Q. You are now of the opinion that also is in the genuine handwriting of Mr. Tomlinson? A. Yes."

Is that correct? A. I don't remember that.

"Q. That was one of the documents yesterday that you testified was not in his handwriting? A. Yes.

"Q. Now, Mr. Trendley, we have here (producing letters) those were written back in 1925."

And then the following question was put to you to which you made answer: "Question: Do you know, Mr. Trendley, Mr. Rogers could take and copy a letter like that from a genuine letter in half an hour. A. Copy what letters?

"Q. (The letters are produced.) A. You ask me could Rogers write that letter in half an hour.

"Mr. Loughlin: Yes."

To which you made the following answer: "Rogers couldn't write a letter like that in a month. I have had experience writing letters. It took me six months to write one letter in the Patrick Rice case to stand the test, and we had to treat the paper chemically and I tore up a thousand sheets before I could see one that would bear scribbling, because I could see the minute after I wrote them there was something about it that didn't have the right movement. I would tear it up and write another." Did you so testify? A. Yes.

Q. Further on: "Question: Well, were those two documents written by one and the same person, the envelope and the letter?

"Mr. Young: What is the envelope marked?

"A. 722 and 740.

"Mr. Loughlin: No. It is 240, I think.

"The Court: 722 and 240. The envelope is 722.

"Mr. Young: Hotel Mayfair envelope.

"A. I wouldn't be able to tell that just on, I could just—if the jury want to take it for just what it is worth, just for a casual looking over—

"Q. Well, now, there has nothing happened during the noon recess to make you gun shy about this, is there? A. I am not gun shy.

"Mr. Loughlin: Didn't Young tell you during the noon recess that you made a terrible blunder in the Abernathy signatures?

"A. No, sir.

"Q. Didn't he tell you that they were written by two altogether different persons? A. I ask him at dinner time. I said there were a great similarity in the writing.

"Q. And he told you those were entirely different people? A. Yes.

"Q. Isn't that what intimidates you now?" To which you made the following answer: "I should have been intimidated before. I shouldn't have answered a lot of things that the jury would take as my final word on it.

"Q. What do you mean by that, how comprehensive is that statement? A. Well, I have never had any attempt to examine it.

"Q. You said you have said a lot of things today you shouldn't have said. What do you mean by a lot of things? A. I mean exhibits I have never seen before passed up to me one after another. I took them from the general appearance and the pictorial effect.

"Q. Do you remember any you had great regrets about other than the Abernathy signatures? A. Yes, I think I answered a good many without any deliberation.

"The Court: The witness has answered.

"By Mr. Loughlin:

"Q. Do you recall any now you think you might have been mistaken about? A. Well, I might be on those Ruby Caldwell, I never did have a chance to make a regular examination of those."

And then further on in the case, this question, and I want you to follow this very closely, please:

"Q. Now, Mr. Trendley, has it ever happened in the course of your 350 or 400 cases in which you have testified as an expert that you have given one

side the opinion that a certain document was a forgery and gave the other side an opinion it was a genuine writing?

"A. Yes, sir. And I withdrew out of that case when I found the mistake."

Then we come on down:

"Q. What was the case?

"A. I went down on a dark cloudy day in the probate courtroom to look at a will. It was a day something like this, and I looked at it and made an examination and told the attorney what I thought of it. Later on I examined it again and I told him I would have to withdraw from the case, and I didn't appear for either side."

Correct? A. That is the same case you refer to in the first part of them.

Q. Yes, I mean— A. Yes, I did. It was a dark —the Probate Court in St. Louis is a very dark and gloomy place, and it was a pouring, rainy day, and I didn't have much opportunity to look at it, but when I did go again and made the examination I went and told him that I couldn't do it.

Q. So your explanation for that is it was a dark and gloomy day? A. Yes, sir.

Q. All right. Now let's get a case that wasn't on a dark and gloomy day.

"Q. Was there ever an occasion where you had a questioned document in your possession for as many as several weeks, where you made an elaborate written report, in which you pointed out the difference between the signatures on the questioned document and the signatures on the admitted genuine writings, gave your opinion the signature was a forgery on one side, and gave your opinion to the other side in the same case that it was genuine?

"A. No, sir.

"Q. Never done that? A. No, sir.

"Q. Never heard of a case like that? A. That is

the only incident I had and I had to withdraw; when I found out I was wrong I quit.

"Did you not do this in this very Olmer case that you testified about at the beginning of your cross-examination, when you had appeared as an expert for Taylor Young? A. Oh, no. I made a mistake and corrected it the same day."

A. That is the one you referred to before.

Q. I want to impress it on you. A. Yes.

"Q. Did you not render to Mr. Taylor Young a written opinion in that case in which you told him for eight different reasons, set out in including pictorial effect, and all the other concomitants you have mentioned here, the signature on the release, the validity on which he was challenging in that case, was not the signature of the man it purported to be? A. Yes, sir.

"Q. You gave that written opinion? A. Yes, sir."

Now, coming down to this next case:

"Q. Did you not testify for Mr. Snyder on June 25th, 1927, that the signature which you had the day before announced as a forgery in the examination of Mr. Young was a true and correct genuine signature?

"I don't remember the circumstances. I remember I testified the next day.

"Q. Did not Mr. Young thereupon file a motion for a new trial, in which he declared your testimony false and unworthy of belief, and that you had double-crossed him and changed your opinion? A. He had a right to believe that that day. I will tell you the circumstances."

And at this point you were addressing Mr. Loughlin, the lawyer:: "You were directly connected with it.

"Q. You will have a chance to explain.

"Mr. Young: I think the witness is entitled to explain.

"Mr. Coughlin: You may explain if you say I am connected with it."

To which you made this answer: "I was testifying for you in four courts, at Judge Hall's court at two o'clock—"

A. That's correct.

Q. "I got permission to leave the railroad for two hours to come over on your telephone call. I had what we call a hot train for New Orleans, for the Pacific Coast, was to come into East St. Louis at 3:30 with 28 cars of bananas to be re-iced, and I had only one man available at the office when I left. The Missouri-Pacific were holding a train to make an hourly run out of East St. Louis to ice the cars and get out of Illinois. While testifying for you the telephone rang, you remember, and there was a telephone call for Mr. Young to come out to Clayton. I didn't know whether to go to East St. Louis or to Clayton. I went out there at 3:30. Four o'clock had passed and my friend was on the train. I went up in the air and testified to anything they put up to me. I didn't have my mind on the case."

Is that correct?

A. That's all the substance of what you have been talking for an hour, is just that one case. Now, there you are. I was up in the air.

Q. That's your explanation? A. Yes, sir.

"Q. When was it you went up in the air? When Young questioned you?

"The whole time I was out there. It was the 24th of June? A. I suppose it was. It was the day of the Thomasson trial. That was the day you went up in the air on the witness stand? A. Yes, sir."

Now, is the testimony as I have recited it to you from the Olmer case and from the Thomasson case correct? A. Yes, sir.

Q. All right. Now, let's get along: "You say that you have prepared spurious writings for the purpose of deceiving witnesses? A. Not many. I have.

Q. You have? A. Uh-huh.

Q. Have you ever prepared any spurious writings whereby you have successfully misled or deceived Elbridge W. Stein? A. No.

Q. Have you ever prepared any spurious writings whereby you have successfully deceived and misled Mr. John F. Tyrrell? A. I don't know whether he — If he was on the Patrick Rice case I may have.

Q. Well, what happened in the Patrick Rice case? A. I understood they all picked him out.

Q. Well, the signature you produced purported to be a genuine signature, did it not? A. Yes.

Q. And the Court set it aside as a forgery? A. No, they let him examine it. I don't know as they set it aside. Talking about the ones that I wrote, not the will.

Q. What did you do in the Patrick Rice case? A. I wrote nine signatures of W. R. Rice.

Q. For what purpose? A. Put them into an envelope for the purpose of identification.

Q. And for the purpose of deceiving the people who would testify on the other side? A. Testing their ability.

Q. Yes, and the Court set the will aside as a forgery? A. The jury did—no, the Court.

Q. So your efforts came to naught? A. What?

Q. Your efforts to establish the genuine signature amounted to nothing? A. Not there.

Q. All right. Now then, had you ever prepared any spurious writing for the purpose of deceiving Mr. Herbert J. Walters? A. I never heard of him.

Q. All right. Or for the purpose of deceiving Harry E. Cassidy? A. Never heard of him.

Q. Or Mr. Wilmer Souder? A. No.

Q. Or Mr. Clark Sellers? A. No.

Q. Didn't you sit in the courtroom while the gentlemen testified on direct examination? A. Yes, sir.

Q. Didn't you prepare questions for the defense? A. No.

Q. And then you say you never heard of any of these gentlemen? A. Yes, I have heard— you said did I ever do anything to deceive them. I have heard of—Clark Sellers is the only one I ever heard of. I have read of Stein, I believe, in a couple of cases. I think Osborn was one of those experts in New York that fell down on the will signatures.

Q. You have testified here, being offered by the defense as an expert, that you make only cursory examinations and you give curbstone opinions? A. I did in one case, and I referred to that, it was a curbstone opinion.

Q. And you change opinions in the middle of a case, correct? A. One case out of 385.

Mr. Lanigan: I object to the qualifications of the witness.

Mr. Reilly: I submit his experience of 387 cases covering a period of 40 years—and the Court will recall we didn't have the opportunity to send all over the world and examine into the records of the $150,000 case prepared by the State of New Jersey and the experts brought in here. They brought men in here that we did not know five minutes before they took the stand they were going to be called.

When we did get from New York and other places by wire instances of where Mr. Osborn

corrected himself or was mistaken, and we asked him, he admitted it.

Mr. Lanigan: I object to that. There is no such record.

Mr. Reilly: I beg your pardon. Let me finish my argument. And again with Mr. Stein, we showed that he had been in error. I say that a man who has testified in 387 cases or more, as Mr. Trendley has, covering a period of forty years and admits that in three or four cases he may have been mistaken, is honest in his opinion, but it does not destroy his value as an expert.

This is not a science, this is the opinion of those who have devoted their lives to examining disputed writings, and while it is true he may have offered at several trials, as he had a right to do, exhibits or copied signatures, or copied papers for the purpose of cross-examination, and the confusing of the experts on the other side, that is no disrespect to him, nor does it lessen his ability as an expert.

I say he is qualified. I ask the Court to pass on his qualifications.

Mr. Lanigan: I ask that the Court strike from the record the remarks of counsel, I think they are highly prejudicial about the State of New Jersey with its $150,000 case and its experts.

Mr. Reilly: I will strike out the $150,000 case.

The Court: The jury will, of course, disregard that.

Mr. Reilly: I will say a large amount and a large number of experts. We come before the Court penniless.

Mr. Lanigan: I will ask counsel to withdraw that, please.

Mr. Reilly: I can't withdraw that which is a fact.

Mr. Lanigan: I move to strike it.

The Court: Well, I will strike that out, too, because there is no evidence that it is penniless. If you feel certain that you are, why, I personally don't question that, but I am going to strike it out.

By The Court:

Q. Mr. Trendley, how old are you? A. Sixty-seven.

Q. Where do you live? A. East St. Louis, Illinois.

Q. You say that you have testified as an expert in 350 cases? A. Over that, yes, sir.

Q. Well, how long have you been studying handwriting? A. Forty years.

The Court: And how long have you been practicing the examination of disputed writings?

The Witness: Forty years.

The Court: Well, gentlemen, I now have this to say: It seems to me that the mere fact that this man admits having made a mistake

and the mere fact that at times he gave curbstone opinions which he afterwards corrected and testimony along that line, does not justify me in disqualifying him as an expert in view of his testimony as to his experience as an expert. As far as the value and weight that will be given to his testimony, that is a thing with which I am not presently concerned.

I think you may proceed, Mr. Reilly.

By Mr: Reilly:

Q. Now we have it, have we, Mr. Trendley, that in one instance you corrected your testimony yourself? A. Yes, sir.

Q. And brought that to the attention of counsel and the Court yourself? A. Yes, sir, admitting that I gave them an answer, what we call a curbstone, at a glance—

Q. That is the St. Louis case that you speak of? A. Yes, sir.

Q. Did you at the request of counsel for the defense of this case some time in November, 1934, or early December obtain some photographic copies of different writings that had been discussed in this case? A. Yes, sir.

Q. After that did you attend the trial here and listen to the testimony of Mr. Osborn and the other men that have been mentioned? A. I did.

Q. And then did you obtain photographic copies of Mr. Osborn's—and the other gentlemen appearing for the prosecution—whatever charts or records they had which were offered in evidence? A. Yes, sir.

Q. Have you studied them? A. Yes, sir.

Q. Since you obtained them? A. I have.

Q. Have you listened, and did you listen care-

fully to the testimony given by the gentlemen called by the State? A. Yes, sir.

Q. Have you testified in cases against Mr. Osborn? A. Yes, sir, the Patrick Rice case.

Q. And have you met any of these other gentlemen in other cases? A. I think Mr. Tyrrell was on that case also.

Q. Have you met any of the other gentlemen? A. No. Sellers is on the Coast, Los Angeles.

Q. And you never met Mr. Stein? A. Of New York, no.

Q. Have you given careful study and attention to the exhibits or copy of the exhibits which you had in your possession? A. I have.

Q. And have you discussed it with other people who are recognized in handwriting profession as experts?

Mr. Lanigan: Objected to.

The Court: I think that will have to be sustained.

Mr. Reilly: May I have an exception?

The Court: Take your exception.

(Exception allowed and the same is signed and sealed accordingly.)

(s. s.) THOMAS W. TRENCHARD,
Judge.

Q. And you have now made certain memoranda from which you desire to testify? A. I have.

Q. Affecting the charts and exhibits that you have examined in this case? A. I have.

Q. And you have been here for the past week, have you, studying the records and the charts and

the memoranda that have been supplied to you? A. I have.

Mr. Reilly: Now if your Honor please, I am going to ask you to do this, if you will; to unravel all these charts and put them up on the wall and go into this long examination— It has been a tiresome day for me, on account of my throat, carrying the burden.

Would it be asking too much to let this go until the morning?

The Court: Your purpose is, as I understand it, to put these charts on the wall?

Mr. Reilly: On the wall, and everything else. It will take about 15 minutes. I don't want to drag out all the charts, because I am convinced,— I don't think any objection will be made to what I may say—that the jury have considered the charts carefully and I don't want to put them all over the wall. I think one set of charts will do for our examination.

The Court: Well, now, Mr. Reilly, will you or your staff attend to the setting up of these charts which you desire to use, or have this expert use for the purpose of illustration? Will you or your staff ticket those charts on the wall tonight so that tomorrow morning we will be all ready to begin.

Mr. Reilly: If the State is willing to leave them here tonight, I will do so and, if not, we will come here tomorrow morning at 9:30—

Mr. Lanigan: I can have the Captain in

charge of exhibits here, Captain Snook, in sufficient time before court opens, long before.

Mr. Reilly: At 9:30 tomorrow morning I will have some of my staff here and those exhibits will be on the wall before we start.

The Court: Of course, counsel understands what I have in mind is that we don't want to lose any time tomorrow morning.

Mr. Lanigan: We are endeavoring to speed as much as possible, your Honor.

The Court: Very well.

The Court then will take a recess until ten o'clock tomorrow morning. The people will remain seated in the courtroom until the jury has retired. The jury may now retire.

(At 4:23 p. m. the jury retired.)

The Court: The prisoner is now remanded to the custody of the Sheriff. He may retire.

(The prisoner retired in the custody of the Sheriff.)

The Court: The Court will now take a recess until ten o'clock tomorrow morning.

(At 4:25 p. m. the further trial of the case was adjourned until tomorrow morning, Friday, February 1st, 1935, at ten o'clock.)

STATE vs. HAUPTMANN

FLEMINGTON, N. J., February 1, 1935.

TWENTY-THIRD DAY

Present:
Hon. Thomas W. Trenchard

Appearances:
Mr. Wilentz,
Mr. Lanigan,
Mr. Peacock,
Mr. Large,
Mr. Hauck,
For the State.

Mr. Reilly,
Mr. Fisher,
Mr. Pope,
Mr. Rosecrans,
For the Defendant.

(10:13 A. M.)

The Court: Mr. Attorney General—

(Mr. Wilentz conferred with the Court at the Bench out of the hearing of the jury.)

(The jury was polled and all jurors answered present.)

Mr. Wilentz: If your Honor, please, yesterday we had a witness on the stand by the name of Kiss, and the question arose as to his testimony with reference to the day and the hour when he alleged this child was taken to

a hospital. There was some question as to whether or not the record was accurate in one instance. The other instance, the defense contended that it was accurate.

Now, we were about to enter some remarks on the record, Mr. Fisher and myself, and I then stated that I would send for the original record from the hospital. We had hoped that it would come here yesterday, but it didn't get here until after court. We have it here now.

The situation is best shown by the testimony about at this point on re-direct by Mr. Reilly:

"Q. To your best recollection, what time was that that he came?" referring to the doctor. "A. It was around half past—after midnight.

"Q. After midnight. As the result of Dr. Brunner's call after midnight of Washington's Birthday did your son go to a hospital? A. My wife took right away in a blanket.

"Q. About what time would you say in the morning of the 23rd of February did your son leave for Bellevue Hospital? A. It was right after the doctor left I run out for a taxicab, I brought it there and my wife took it.

"Q. What is your best recollection, one o'clock? A. Around one o'clock.

"Q. Around one A. M., February 23rd? A. You really could see in the Bellevue, the records there.

"Q. No, please answer. One o'clock in the morning, is that it? A. About that.

"Mr. Reilly: That is all."

Now Mr. Reilly has consented that instead of calling the people from the hospital—I prom-

ised we would return the original—we have the original record and we want it entered by stipulation that the records of Bellevue Hospital show that the one o'clock in the morning was not one o'clock in the morning of February 23rd, but was one o'clock, 1:20 A. M., February the 22nd; that the midnight referred to, shortly before midnight, was shortly before midnight of February the 21st; and it is very material, if your Honor, please, that that appear in the record and I understand that there is no point made of the method of proof.

Mr. Reilly: As I recall, the testimony that has not been read, many timess during the testimony of the witness Kiss, he referred to the night as Washington's Birthday—Washington's Day, I think he called it—and if it appear from the record that any time during Washington's Birthday the child was admitted to the hospital, either on the 22nd or the 23rd, I not only consent to it but I welcome it. I therefore join with the Attorney General in offering a copy of this record from the hospital.

Mr. Wilentz: We stipulate, if your Honor, please, that the records of Bellevue Hospital show the admission of Mr. Kiss's son on the 22nd day of February, 1932, at 1:30 A. M.; and I think we can stipulate that in February of that year there were twenty-nine days, rather than introduce a calendar.

Mr. Reilly: That is right, Leap Year.

Mr. Wilentz: And that one week exactly after February 22nd at 1:30 A. M. is February the 29th, 1:30 A. M.

The Court: Well, now, you have your stipulation upon the record.

Mr. Reilly: May we have it stipulated that the child remained there and was discharged on the 6th of April, 1932?

Mr. Wilentz: Yes, certainly.

Mr. Reilly: If you want to make a memorandum, it is the official record of Bellevue Hospital, Childrens' Medical Division, and it bears the number 15888-90, 1932.

The Court: Mr. Reilly, you may now proceed with your witness.

JOHN M. TRENDLEY resumed the witness stand:

Direct Examination (continued) by Mr. Reilly:

Q. Mr. Trendley, you testified yesterday—did you examine the ransom notes? A. I did.

Q. Have you seen the original ransom notes at the conference in Trenton? A. Yes; about two hours and fifteen minutes.

Q. You saw the originals for two hours and fifteen minutes. Since then have you been examining the photographic copies of the ransom notes which were offered in evidence by the State? A. I have.

Q. Did you examine at the Trenton conference for two and a half hours the request writings of the defendant? A. I did.

Q. Have you been examining since photographic copies of the request writings? A. I have.

Q. And you examined the charts of Mr. Osborn and the other experts who testified? A. I have.

Q. And you examined all of the evidence introduced from the handwriting experts, the Hauptmann writing and the ransom notes for the past two or three weeks? A. I have.

Q. Continuously? A. Yes, sir.

Q. And as a result of your study and examination of the ransom notes and the Hauptmann request writings, are you in a position to render an opinion as to whether or not Hauptmann, this defendant, wrote the ransom notes? A. In my opinion he did not.

Q. Now, I am going to take just one set of charts, Mr. Trendley, and they are the charts of the first witness, Osborn.

Mr. Reilly: And may I have, Captain, please, the nursery note?

(Captain Snook hands Mr. Reilly a paper.)

Q. I will ask you this, Mr. Trendley, is it not a fact that Mr. Osborn's exhibits of certain portions of the ransom notes have been photographed? A. Yes, sir.

Q. And is it not a fact that in the charts and paraphernalia used by the other experts for the State, portions of notes used by Osborn, have not been photographed by them? A. Yes, sir.

Q. And portions of their exhibits have not been referred to by Mr. Osborn? A. Yes, sir.

Q. So that each expert does not use the same letters or words upon which he bases his opinion, is that correct? A. Well, some did use some of them.

Q. Some did use some words? A. Yes.

Q. Some used other words, didn't they? A. Yes.

Q. By that I mean did each and every expert

called by the State use the same identical chart for his testimony as was used by Mr. Osborn? A. No, sir.

Q. Now, I am showing you what is popularly known in this case as the ransom nursery note, State Exhibit 18, and I call your attention to the note with the "d." Here it is. Do you find, Mr. Trendley, in Mr. Osborn's chart the "d" that begins the nursery note? A. For comparison?

Q. I want you to look at these carefully. Come down here, please, and see whether or not in Mr. Osborn's charts he has enlarged or photographed the particular "d" that this note starts with? A. No, sir.

Q. You might just as well stand there. Now, the e-a-r making up the balance of the word "Dear" in the ransom note is divided and separated from the "D," is it not? A. It is.

Q. Does it not appear, the e-a-r, to be a continuity of strokes of a pen? A. It does.

Q. Will you point out if it is there on Mr. Osborn's chart, the e-a-r of "Dear"? A. It is not there.

Q. It is not on there? A. It is not on there.

Q. Then is it a fact, Mr. Trendley, that the word "Dear," the first word in the nursery note, is not on Mr. Osborn's chart? A. It is not.

Q. Now I refer you to the capital "S" of the next word, "Sir," and ask you whether or not you find the capital "S" on Mr. Osborn's charts. A. I don't see it.

Q. Now, is it not a fact, Mr. Trendley, that the "i-r" of "Sir" is a continuity of pen strokes? A. It is.

Q. Will you point out, please, if you can, on Mr. Osborn's charts the "i-r," if it is there? A. It is not on there.

Q. And the salutation "Dear Sir," Mr. Trendley,

is it a fact that it ends with an exclamation point? A. It does.

Q. Is there any exclamation point on Mr. Osborn's chart? A. There is not, I know that.

Q. Is it fair to assume, Mr. Trendley, that Mr. Osborn has not designated on his chart the salutation "Dear Sir!"?

Mr. Lanigan: That is objected to.

The Court: I suppose, Mr. Reilly, the chart speaks for itself and the records you hold in your hand speak for themselves.

Mr. Reilly: But I want to point out, if I may—

The Court: The witness may point them out if he wishes to.

Mr. Reilly: May I ask the question of the witness?

The Court: Yes, you may.

Q. The "Dear Sir" exclamation point does not appear on any of Mr. Osborn's charts? A. It does not.

Mr. Reilly: May I at this point show that to the jury?

The Court: Yes.

(Counsel exhibited documents to the jury.)

Q. And in rendering your opinion that you have already given us, concerning the defendant's not

writing this note, did you take into consideration and carefully weigh the words "Dear Sir!" as written in this ransom note? A. Yes, sir.

Q. Now we pass to the first word of the ransom nursery note, the word "have," and I ask you, Mr. Trendley, whether or not there is not a distinctive change in the angle of the "H" in that word from the angle of the pen strokes that made "Dear Sir!"? A. Yes, about twenty-five degrees slant to the left.

Q. Would you say then that that "H" and the word "Have" was written in what we more particularly call and is popularly known as backhand? A. It was.

Q. You say there was a slant in the hand of at least twenty-five per cent. to the left? A. Approximately.

Q. And that word "Have" begins with a capital "H," doesn't it? A. It does.

Q. Will you look at Mr. Osborn's charts and see whether he has indicated the capital "H"? A. (Witness examines charts.) He did not.

Q. Now, is it not a fact, Mr. Trendley, that the a-v-e finishing the word "have" is a continuity of pen strokes? A. It is.

Q. It is separated, is it not, from the "h"? A. It is.

Q. Will you please look at Mr. Osborn's chart and see whether or not he indicates the a-v-e? A. Let's see that a moment. (Examines ransom note.) Don't find it.

Q. The next symbols in this nursery note are five and four o's. Is that correct, Mr. Trendley? A. Correct. Fifty—

Q. Five and four o's? A. Five and four o's.

Q. Now, will you look at Mr. Osborn's chart and see whether or not there are any such figures as five and four o's, indicating 50,000? A. I am positive there was no figures.

Q. Now, the next symbol on the nursery note, Mr. Trendley, is what appears to be an "S" with some lines through the center, which might indicate a dollar sign; is that correct? A. It is.

Q. Will you look at Mr. Osborn's chart, please, and see whether he indicates this dollar sign? A. I am sure he didn't.

Q. Now the next word on the ransom note appears to be r-e-a or r-e-d-y; is that correct, redy? A. Yes, "redy."

Q. "Redy". Now, will you look at Mr. Osborn's charts and see whether he indicates any one of those letters? A. I don't see them.

Q. Now, will you look at Mr. Osborn's charts for a moment, please, and see whether he indicates any y's? A. Yes. Here is one, "my," "my".

Q. You are now indicating y's, on Exhibit S-112; correct? A. Correct.

Q. Are there any y's on here (indicating Exhibit S-109)? A. Two.

Q. The y's that you are now pointing to, on Exhibit S-109, are on the side of the column known as the "request Hauptmann writing." Is that correct? A. Correct.

Q. Now will you point out the y's in Mr. Osborn's chart from the ransom notes? A. (The witness indicates.)

Q. You are indicating now these two y's from Exhibit S-112? A. I am.

Q. Looking at the "y" of the ransom note, Mr. Trendley, do you find any "y" that to the vision, first to the vision, corresponds with any "y" Mr. Osborn had in his column ransom notes? A. I do not.

Q. Do you find any "y" to the vision that corresponds with any of the y's in the request writings from Hauptmann? A. Let me see. I do not.

Mr. Reilly: May I show this to the jury?

(Counsel exhibited a document to the jury.)

Q. Did you take into consideration in passing your opinion concerning the writing of the nursery note the word "have"? A. I did.

Q. Which is not found on the Osborn chart? A. It is not.

Q. The 50,000? A. Also.

Q. Not found on the Osborn chart? A. No.

Q. The dollar sign not found on the Osborn chart; correct? A. Correct.

Q. And the word "redy," r-e-d-y, not found on the Osborn chart? A. No.

Q. And particularly the "y" and the formation of the "y" in the word "redy"? A. Yes, sir.

Q. Now, in your examination upon which you base your opinion, did you examine the handwriting of other people? A. Yes, sir.

Q. And particularly did you examine the handwriting of Isidor Fisch? A. I did.

Q. And have you the papers from which you made the examination of Isidor Fisch? A. I think Mr. Goodspeed has them in his—

Mr. Reilly: Will you get them for me? I will pass that for the moment.

Q. Now, the next is "25" and three o's, and do you find that on Mr. Osborn's chart? A. I do not.

Q. And a dollar sign? A. I do not.

Q. And the next word on the nursery note is the word "in," i-n. Do you find that on Mr. Osborn's chart? A. Let me see it. (Examines ransom note and charts.) I do not.

Q. Then am I correct in asking you this question, Mr. Trendley: That the first line, "Dear Sir," and the second line, "Have $50,000 ready, $25,000 in"—the first two lines of the nursery note—there is no word, letter or symbol indicated upon the Osborn chart? A. There is not.

Q. Now we will pass to the third line, "20" and a dollar sign—is that indicated on Mr. Osborn's chart? A. It is not.

Q. The next word, "bills," b-i-l-l-s—is that word indicated on Mr. Osborn's chart as "bills"? A. I don't see it.

Q. Now I call your attention to the "s" in the word "bills" and ask you whether or not that "s" standing alone has been indicated on Mr. Osborn's charts, any of those? A. No. (Witness examines note.)

Q. Would your Honor permit me to have one of my assistants stand here and raise these charts?

The Court: Surely.

Mr. Reilly: Malcolm, will you come here?

A. No.

Mr. Reilly: Will you stand here and hold up these charts?

Q. Now again I want to call your attention, Mr. Trendley, to Exhibit S-111, where Mr. Osborn has indicated some S's in the ransom notes, and I ask you to look at the "s" at the end of the word "bills" in the nursery note, and I ask you is this "s" the "s" in the nursery note (indicating)? A. It is not.

Q. Or this "s" (indicating)? A. It is not.

Q. Or this? A. It is not.

Q. Or this? A. It is not.

Q. I think that is the only sheet that has s's on. I am now referring to Exhibit S-111. Then the next is 15,000 with a dollar mark? A. That is not on.

Q. That is not on Mr. Osborn's charts? A. No.

Q. Now the next word is, is it not, a series of pen strokes indicating that the writer intended the word to be "in," is that correct? A. It is.

Q. Will you examine Mr. Osborn's charts and see whether or not there is any reproduction of the word "in"? A. There is not.

Q. Then the next is "5," dollar mark, and you say there are no numbers at all or dollar marks on his chart, correct? A. There are none on.

Q. And the next word, "bills," is that correct (showing a ransom note to the witness)? That is the word, isn't it? A. "Bills," yes.

Q. Do you find it on Mr. Osborn's chart, the word "bills"? A. I do not.

Q. Did you find the word "bills"? A. It is not.

Q. I again call your attention to the "s" at the end of the word "bills," because I notice Mr. Osborn had put some s's on a chart. Do you find that "s" on Mr. Osborn's chart? A. (After examining various charts.) Do not.

Q. The next word begins with what appears to be a capital "A," "After." Is that correct, Mr. Trendley? A. It is.

Q. Now, taking that word "After," will you look carefully at Mr. Osborn's chart and see whether or not any of the letters, "a," "f," the "t," "e" or the "r," either standing alone or in conjunction with any other letter, appear on his chart? You may hold this for comparison. A. They do not.

Q. The next is the figure "2-4" and the word "days," d-a-y-s, of course there are no figures you have told us on the chart at all. A. None whatever.

Q. I call particular attention to the "s" at the end

of the word "days" and ask you whether or not that "s" appears on Mr. Osborn's chart. A. I know that doesn't.

Q. It does not. A. No.

Q. Am I correct in saying then, Mr. Trendley, that the third line that I have read, "$10,000 in five dollar bills after two to four days," you find none of the letters or symbols on Mr. Osborn's chart? A. I do not.

Q. Did you take that line into consideration in forming your opinion? A. Yes, sir.

Q. And is it a fact, then, to repeat, that the first line, "Dear Sir!", the second line, "Have $50,000 ready, $25,000 in," the third line, "$20 bills, $15,000 in $10 bills"—what is that? A. "And."

Q. "And," fourth line, "$10,000 in $5 bills after two to four days," those four lines, you find no symbol or sign from those four lines on Mr. Osborn's charts? A. I do not.

Q. Now we will pass to the fifth line of the nursery note and the word that begins the line is "we." Is that correct? A. That is correct.

Q. Will you please look at Mr. Osborn's charts and see whether he has indicated the word "we." A. (Witness examines note.) He has not.

Q. Mr. Trendley, what is known as the pattern of the hand? You might sit down for a minute. A. Of the ransom letters?

Q. No. In your profession or calling what do you describe as the pattern of the handwriting? What does that mean, the pattern of the handwriting? Is there such a term? A. The method of the forms of the letters.

Q. Now you have taken photographs, have you, like this, and prepared charts? A. I have had them taken, yes.

Q. Had them taken in cases in which you have testified? A. Yes, sir.

Q. Now, Mr. Trendley, is it possible to change the pattern of any handwriting by the use of the retouching pencil or the etching knife on the negative? A. No, it isn't.

Q. Is it possible that the lines can be shortened or made longer by use of the camera? A. Well, yes, they can distort it.

Q. It is possible to distort the handwriting in photography, is it? A. Oh, yes; you can do a lot of that stuff with photography.

Q. If a photograph is taken by using an artificial light, would that change— A. No, I don't think so.

Q. Can a different slant be obtained in the way the negative is printed? A. Oh, yes.

Q. Or a different effect be produced by the shading of the negative while printing? A. I think you could, yes.

Q. Now I want to call your attention to the "we" that Mr. Osborn does place on his chart, found on Exhibit S-111. Is that "we" (indicating)? A. That is.

Q. You do not find the "we" on the ransom note to correspond to the "we" on the nursery note, do you? A. I do not.

Q. Now is there any other "we"? We will show the jury this chart (indicating another chart.) Is there any other "we" that Mr. Osborn has indicated on his charts? A. Yes, two of them.

Q. Two "we's"? A. Three of them.

Q. Three; on Exhibit S-111, is it, or S-109? A. 109.

Mr. Reilly: May I at this point exhibit this note again to the jury with this "we" (handing ransom note to the jury) while I point out to them the "we" on Exhibit S-111, and the two "we's" on S-109.

Mr. Lanigan: Please bring your witness out in front, Mr. Reilly, I can't see him.

Mr. Reilly: All right.

Q. Now the next word is the word "will," is that correct, "We will"? A. Yes, sir.

Q. Do you find any of the letters, the "w," "i" or either one of the "I's" on Mr. Osborn's chart? A. (After examining charts.) None appear on the chart.

Q. The next word is "inform," i-n-f-o-r-m. Do you find the word or any of the letters in any form or combination that go to make up that word on Mr. Osborn's chart? A. I do not.

Q. The next word is "you," y-o-u, and I call your attention to the "y" to the "o" and to the "u," and ask you whether or not in that form of word or in any combination, singly or otherwise, from that word you find it on Mr. Osborn's chart? A. I do not.

Q. Now I notice that Mr. Osborn has on his chart here some "y's," has he not? A. He has.

Q. In fact right here in front of us we find S-112, we find a "y" from the ransom note, is that right? A. We have.

Q. And that "y" ends in a straight downward stroke, correct? A. It does.

Q. And then we find another one along side of it with a downward stroke and a hook on the right? A. Yes.

Q. And then we find in the Hauptmann request writings a "y" on the same chart, downward stroke, hooked to the left, correct? A. We do.

Q. Do you find any more "y's" on here that we can compare? A. This one (indicating.)

Q. Another downward stroke, correct? A. Yes, sir.

Q. That is from the Hauptmann writing, Chart S-111. Now, I am referring to Chart S-110, and you find the "y" with a downward stroke from the request writing, correct? A. Right.

Q. And a "y" with half a loop to the right? A. Yes, sir.

Q. Rather, to the left, is that correct? A. Correct.

Q. Any other "y"? A. One in "robbery."

Q. "Robbery"? A. "Robbery."

Q. That is the request writing and it is a downward stroke? A. Downward stroke.

Q. A "y" in "Nelly"? A. That is in the ransom note.

Q. In the ransom note? A. I find another "y."

Q. "During," is that? A. "During."

Q. That is with a half a loop, isn't it? A. It is.

Q. With an open oval? A. Oval, yes.

Q. And that is on S-109, is it not? A. 108.

Q. Exhibit 108? A. No, 109.

Mr. Lanigan: Which is it?

The Witness: 109.

Mr. Reilly: 109.

Q. Here is a "y," is it not? A. Two in "my."

Q. Now, will you explain the difference between the "y" as you, an expert, see it in the word "you" and the y's in the request writings from Hauptmann. I mean this "y," not these y's; this "y" in "you." This is the one I mean. A. Yes. I find one in "you" on—what is the number of that?

Q. Is that "you"? A. Yes.

Q. I am talking about the "y." How is the "y," in your opinion, in the nursery note made? A. It is made with an initial stroke of about twenty degrees,

or fifteen or twenty degrees, above horizontal, about in this manner (indicating), a short stroke connecting with a staff stroke, and the staff stroke is curved and the upstroke follows the staff almost to the top, to the base line.

Q. So that in your opinion in the making of the "y" in the nursery note there were two strokes, one down and one up? A. There were three—the initial, the initial stroke—

Q. That is the top of the "y," is that what you call the initial? A. Yes, the first stroke.

Q. Now, the rest of the "y." A. There is a down stroke and an up stroke.

Q. A down stroke and an up stroke? A. Yes, sir.

Q. On the request writings of Hauptmann there is a down stroke only, is that correct, and no up stroke, full up stroke? Is that right? A. Well, there would be—

Q. Well, never mind that. This is the initial, is it not? By the initial you mean what I call the belly of the "y," is that right? A. Well, no, that would be the initial stroke, that would be a four stroke "y," with another letter.

Q. Yes. A. You see, the other one is the initial stroke, the first letter in "you." Now, this is the terminal letter of a word, and this necessitates another stroke up, to connect it.

Q. Well, whoever wrote the "you" in the nursery note, am I correct in saying he wrote it this way, came down and up again? A. Yes, sir.

Q. And joined it with the "o," is that right? A. He did.

Q. Now, will you look at the "u" in the word "you" and see if you find that particular "u" indicated by Mr. Osborn on his charts? Take your time. A. I do not.

Q. The next word, Mr. Trendley, was it intended in your opinion by the writer to read "when," "We will inform you when."

Mr. Lanigan: That is objected to.

Mr. Reilly: Well, the question is withdrawn.

Q. Looking at the symbols in ink, following the word "you," what do you say the word indicates? A. Where, w-e-r-e.

Q. We-r-e? A. It is a multifarious letter, the "r" is.

Q. Now it is a peculiar word, isn't it? A. It is.

Q. It is written in a peculiar manner. A. It is.

Q. It is hard to read it and hard to decipher just what is meant. A. You would do it by reading the entire line.

Q. You would have to read the entire line, wouldn't you? A. In order to fit it in.

Q. Yes. So that it is a combination of characters written by a pen, is it? A. Yes.

Q. That go to make up what appears to be the word "where," or is intended to be the word "where." A. It is.

Q. Is it in your opinion a distinctive word that stands out? A. As to the way it is written?

Q. As to the way it is written. A. It is.

Q. Now did you take that into consideration? A. Certainly.

Q. You consider that an important point in this nursery note? A. Yes, sir.

Q. Will you indicate, please, if you can, that word on Mr. Osborn's chart, if it is there? A. (After examining charts.) I do not.

Q. Do you find any combination or single letter taken from that? A. I didn't notice it.

Q. Will you look again, please, while the jury is looking at the word. A. I did not.

Mr. Lanigan: Did not what?

Mr. Reilly: Find any combination of letters or words making up the word "were" (where).

Q. The next word is "to," is it not, some ten strokes which when reading the continuity of the line was intended for a "to"? A. Yes, that is what it was intended for.

Q. Is it a distinctive symbol? A. Yes, stands out.

Q. Do you find it on Mr. Osborn's chart? A. No, I did not.

Q. And the last word on the line is the word "deliver" and I show you the note and the word and ask you whether or not any combination of letters, or any letter standing alone appears on Mr. Osborn's charts. (Witness examines charts.) Did you find it? A. No, sir.

Q. So then is it not a fact that beginning "Dear Sir," line 1, "Have $50,000 ready, $25,000 in," the end of line 2, "$20,000 bills, $15,000 in $10 bills and," line 3, "10,000 in $5 bills after 2 to 4 days," then to line 4, "We will inform you where to deliver," end of line 5. You cannot find on Mr. Osborn's chart any symbol, letter or word taken from those five lines? A. I cannot.

Q. Now, the sixth line begins with the word "the," t-h-e; correct? A. It is.

Q. Will you indicate on Mr. Osborn's charts, please, the word "the." (Witness examines charts.) A. I do not.

Q. But I do notice that on Mr. Osborn's chart, referring now to Exhibit 111, that he has taken

from so-called ransom notes two words "the," is that correct? A. It is.

Q. Are those the only two? A. No, I think there is one more.

Q. Let's see. This "the"? A. (Witness points to chart.)

Q. Any on those charts? A. There is not.

Q. A little louder. A. There is not.

Q. So the jury can hear you. A. It is not.

Q. It is a fact, is it not, Mr. Trendley, that these are photographic reproductions according to Mr. Osborn's testimony—you heard him? A. Yes.

Q. Of what he calls ransom notes? A. Yes, sir.

Q. And did you hear him testify that one of the ransom notes he examined, and particularly examined, was the nursery note, which I hold in my hand? A. Yes, sir.

Q. Now does the "the," beginning line 6, is it this "the," Exhibit 111? A. (Witness examines note.) It is not.

Q. Is it this "the"? A. It is not.

Q. Or this "the"? A. It is not.

Q. Where is the "the" over on the other sheet? A. That is all.

Q. Just these three "the's"? A. Yes, sir.

Q. That he has photographed from the ransom note? A. Yes, sir.

Q. And in your opinion you say he has not photographed this "the"? A. He has not.

Q. Is there a difference between "the" in S-18 and the "the" shown on S-111? A. There is.

(Mr. Reilly exhibited chart to the jury, indicating portions thereof with a pointer.)

Q. The next word, Mr. Trendley, is the word "money," and I call your attention to the "y" in the word "money" and ask you whether or not it does

not correspond to the "y" in the word "ready" on the second line of the ransom note. A. It does.

Q. You did not find any "y" in the word "ready" indicated on Mr. Osborn's charts? A. I did not.

Q. Do you find any "y" as indicated in the word "money" on Mr. Osborn's charts? A. I do not.

Q. Would you say, Mr. Trendley, that there is something distinctive about the "y" as indicated in the word "ready" and the word "money"? A. There is.

Q. And in examining—withdrawn. Did you examine Defense Exhibit 11 for identification? (handing same to the witness.) A. I did.

Q. Were there any of the characteristics of the stroke of the "y" in the ransom notes indicated to you in the exhibit offered for identification?

Mr. Lanigan: That is objected to.

The Court: What is your idea about it, Mr. Lanigan?

Mr. Lanigan: There is no foundation for it. We don't know what this is. It is not in evidence.

Mr. Reilly: It is marked for identification. It will be connected later on by a witness who will testify as to whose handwriting it is. It is merely used for the purpose of comparison by this witness in looking at the handwriting of several people, not only the defendant, but other people.

Mr. Lanigan: As I understand it, your Honor, the test under the statute is that there must be produced a writing proved to the satisfaction of the Court to be a genuine writing.

There is no evidence here of what that is. It may be a history of the world, for all we know.

Mr. Reilly: It could hardly be written on a postal card.

The Court: I don't know what the effort is. I don't know what your purpose is. Let me have the question that was put to this witness.

The Reporter: The question was: "Were there any of the characteristics of the strokes of the 'y' in the ransom notes indicated to you in the exhibit offered for identification?"

Mr. Reilly: Now, I may say this to your Honor, that I have no desire to indicate to the jury or to the public at large whose handwriting this is, unless a proper foundation has been laid, and I intend to connect it up.

May we have your Honor pass upon it at the side bar during the usual morning recess at 11:30?

The Court: Yes.

Mr. Reilly: I don't want to be put into a position of trying to disclose something I have no legal right to, and yet I want everything in here I have a legal right to, so I can obtain it from your Honor.

The Court: Yes.

Mr. Reilly: I don't want anything that would bring in the name of anybody that would not be proper, so I will pass it for the next few minutes. I have one or two more questions and

then I will ask the 11:30 recess. What happened to the ransom notes?

Q. So that, am I correct in saying, Mr. Trendley, that beginning at the top of the letter as I have already indicated, and coming down, one, two, three, four, five, six, six lines of this letter or the entire first paragraph of the letter, Mr. Osborn has not indicated any symbol letter or word upon his charts? A. He has not.

Mr. Reilly: Now, may I have an adjournment for five minutes?

The Court: Yes.

(At 11:30 A. M. a short recess was taken.)

(11:42 A. M.)

(The jury was polled and all jurors answered present.)

(The witness resumed the stand.)

Direct Examination (continued) by Mr. Reilly:

Q. I now begin the second paragraph of the nursery note, the first word "we," and ask you whether or not that is indicated on Mr. Osborn's charts. A. (Examines charts.) Let me see that.

Q. (Hands note to witness.) A. It is not.

Q. The next word is "warn," w-a-r-n; is that indicated on Mr. Osborn's charts? A. It is not.

Q. Now, in the words "we" and "warn" we find a combination, do we not, of w-e, "we," and w-a, in "warn"? In other words, we find two w's. A. Yes.

Q. In the two words, one right after the other? A. I see it.

Q. Now, will you indicate on Mr. Osborn's chart again, please, the we's which he has picked out, referring now to Exhibit S-111. A. (Witness points to chart.)

Q. Pointing to a "we," that is not the "we," is it? A. It is not.

Q. And that is the column "Ransom notes," is that right? A. It is. That is not.

Q. Well, now, I point to S-110 and I am pointing at a set of lines made by a pen. That could, could it not, be taken for "we" or for the word o-n-e, one, could it not? A. It could.

Q. It could? A. Yes.

Q. Either one of those two words? A. Yes.

Q. If the continuity of the thought expressed— A. Followed.

Q. —in the letter, or whatever it was written in, followed, it could be taken for "we" or it could be taken for "one," correct? A. It could.

Q. Now will you see if there are any "we's" or "wa's" on any other chart of Mr. Osborn, before we pass these two words? A. There is another one on S-108.

Q. This, S-108, could that also be read as "we" or as "one"? A. It would be pretty hard to say what it would read. It is intended for a "we."

Q. Well there are more strokes, are there not, than necessarily required for the writing of "we"? A. There are.

Q. In both of the exhibits indicated by Mr. Osborn, in his ransom note column, is that correct? A. Yes, sir.

Q. Now we come to the word "you"—"we warn you"—and I ask you whether or not in your opinion that "you" has not the general characteristics of the "you" in line 4? A. The same identical writing.

Q. And made with the same— A. Form.

Q. —form of stroke, correct? A. It is.

Q. Now you have testified that the "y" in "you" on the fifth line of the ransom note was not indicated on Mr. Osborn's chart, correct? A. Correct.

Q. Do you find the "you" on the seventh line indicated on his chart: "We warn you"? A. Well, that is similar to the other one and we looked for that before. It is not on the chart.

Q. The answer is you do not find it. Now the next word or the next set of pen strokes would have to be read and studied in connection with the words before it, would it not? A. Yes, to get the meaning of the following words.

Q. Will you please read, beginning the seventh line? A. "We warn you" then there is an "f" and could be taken for a "u-e"—"f-r-i-e" or "f"—it is meant for "for" though.

Q. It is meant for the English word "for"? A. The —— "u" instead of the "o."

Q. Is it on Mr. Osborn's chart? A. I am not sure. A. (After examining charts.) It is not.

Q. That symbol or that set of pen strokes, did that impress you as distinctive? A. Very distinctive.

Q. Did it cause you to examine it very closely? A. I did all of that closely.

Q. You do not find that set of pen strokes which a reading of the line indicates it was intended for the word "for" upon Mr. Osborn's chart, do you? A. No.

(Hands note to jury for examination.)

Q. The next word is "making," m-a-k-i-n-g. I call your attention to the letter "g" and ask you whether that is indicated on Mr. Osborn's chart. A. (After examining charts.) It is not.

Q. In looking at the letter "g," the last letter in the word "making," is that a distinctive letter? A. Yes. Your attention is attracted to it.

Q. And it is made by bringing a stroke down and ending the letter with a swing to the right? A. Right-hand angle.

Q. Right-hand angle? Like a right angle; correct? A. Yes.

Mr. Reilly: I hold this up so you can all see it. (Exhibiting note to the jury.)

Q. Now that was distinctive, wasn't it? A. It certainly was.

Q. And you took it into consideration? A. Certainly.

Q. So now we have the seventh line of the ransom note and not one symbol or word indicated on Mr. Osborn's chart. A. No, sir.

Q. Correct? And you heard him testify, didn't you, that in his opinion this nursery note was written by Hauptmann. A. Yes, sir.

Q. Now, we begin the eighth line, the word "anyding" or "anything." A. (Witness examines note and charts.) It is not on.

Q. From your examination of this nursery note would you say it was written by a person's free hand or a disguise? A. I think it was written by disguise.

Q. Part of it written and part of it printed, is that correct? A. And I think he made the attempt with the left hand.

Q. Written with the left hand? A. Left hand.

Q. And that word "anyding" stands out, does it not, as a symbol, does— A. It does.

Q. —it not? A. It does.

Q. It is distinctive? A. It is.

Q. Is it not? A. It is.

Q. Visually it would attract the attention of a

person who was not an expert as well as an expert, wouldn't it? A. It would.

Q. Is it not a fact that the shading and the pressure on that word is greater than some of the other words? A. It is.

Q. And you took that into consideration, didn't you? A. I did.

Q. Now the next word is "public." Does that appear to you to have been written or to have been printed? A. The "u" and the "c" have a resemblance of printing.

Q. Does it not appear to you as though more time was spent in writing that word "public" than in the more or less free writing of the first paragraph? A. Yes, I notice a great difference in the word "public" and in "anyding."

Q. Is it not a fact that the word "public" is different in a great many ways from the handwriting that precedes it? A. Yes. I will explain that to you.

Q. Will you explain that to the jury, please. A. It gives evidence of being written with more care than any other word on this note. Each of the letters are brought out just about as perfect as the writer could do it, probably with the left hand. There is a contrast between this style of letter and all the words in the line above it; even in pressure, formation of the letters—that is, the design of the letter.

Q. Did that strike you as something worthy of careful consideration in making your opinion? A. Yes, we gave that consideration.

Q. And the word before "anyding"? A. Yes, sir.

Q. Now will you turn to Mr. Osborn's chart and see whether he has "public" on his chart? Is it on his chart, "public"? A. It is not.

(Mr. Reilly exhibited note to the jury.)

Q. Now, the next is "or," o-r. Do you find that on Mr. Osborn's chart? A. No. I know that is not on there. That is not an "or."

Q. Is it a series of pen strokes which, when read in connection with the words which preceded it, is to be taken as the word "or"? A. That is the only way you could take it.

Q. The next word is "for," is it not? A. It is.

Q. And it is written in a peculiar way, is it not? A. It is. It is different from the other "for" right above it.

Q. Now, is it not a fact that the last letter of this "for" that I am now indicating is more or less indicative of an "e"? A. It has that—

Q. Characteristic, hasn't it?

Mr. Reilly: Have you the set of books that were handed around to the jury when Mr. Osborn was here? Where are they?

Mr. Lanigan: In Trenton.

A. Yes, it has the appearance of an "e."

Mr. Reilly: May I then take this one copy and put it in the center of the jury? The copies they had when Mr. Osborn was on the stand are not available. We will try and have them here after lunch.

The Court: That is admitted to be an authentic copy, is it?

Mr. Lanigan: I don't know what counsel has. What is it?

Mr. Reilly: This is a copy of the paper, the evidence introduced by the State and given

to us, and bears my name on it—Photographs of Ransom Notes furnished by the State.

Mr. Lanigan: Whose ransom notes; yours?

Mr. Reilly: No, no. Yours. You know we haven't any ransom notes.

Mr. Reilly: You don't say this isn't a copy of the photographs?

Mr. Lanigan: I don't know.

Mr. Reilly: Look at it, please.

Mr. Lanigan: My looking at it won't prove anything.

Mr. Reilly: This is unheard of, if your Honor, please. Here is a copy of the volume that Mr. Lanigan and the Attorney General gave us when Mr. Osborn was on the stand so our experts could compare it and so we might have it. And now when we want the jury to look at it when this man is testifying he says he doesn't know what it is.

Mr. Lanigan: Any books that are in evidence that counsel wants he is entitled to, but I don't know what this is. This is his witness. He has no charts of his own.

Mr. Reilly: We don't need any charts. We will use your charts.

The Court: These seem to be photographs of the ransom notes.

Mr. Reilly: That is true. Mr. Osborn was on the stand and the jury had six copies and the Attorney General had one and he gave us that copy which we have been using and our experts have been using for the purpose of comparison. I think your Honor has one, too.

The Court: I thought I had.

Mr. Reilly: I will go ahead and try to show the jury the original, never mind the photograph. It will take a little more time, and I was trying to eliminate all the time I possibly could.

Q. Now we will get down to this word "for" that I was talking about. Do you notice, Mr. Trendley, that on the line directly above this, "We warn you for making anyding," then this line that I am now referring to, "anyding public or for notify," is that correct? A. Correct.

Q. The word "for" is used by the writer of the ransom note twice in two lines. A. He has.

Q. One "for" is directly above the other, is that correct? A. It is.

Q. And are they similar? A. They are not.

Q. They are entirely different, are they not? A. They are.

Q. The first one, you would have difficulty would you not, in knowing what it was unless you read the line? A. Yes.

Q. The second one reads, to the English eye, f-o-e, but when read in continuity with the line, the seventh line, "anyding public or for notify"— A. "For."

Q. You understand it to mean the word "for"? A. You make it "for" there, yes.

Mr. Reilly: Is that the photograph?

The Court: I handed your copy back to one of your associates.

(Book produced by Mr. Pope.)

The Court: I notice that on the back of that paper there is written "Mr. Reilly."

Mr. Reilly: Yes, sir.

The Court: No, on the front; on the front.

Mr. Reilly: Yes, "Reilly's copy."

The Court: "Reilly's copy."

Mr. Reilly: "Photographs of Ransom Notes."

The Court: Does that enable the State to identify that as a true copy of the ransom notes?

Mr. Lanigan: I will look at them. (Examines book.) Yes.

The Court: Are you satisfied?

Mr. Fisher: The Attorney General says it is in evidence.

Mr. Reilly: Well, I am going to examine from this exhibit.

The Court: Yes.

Mr. Reilly: And let the jury keep the original.

The Court: I think it is agreed that you may use it now, Mr. Reilly.

Mr. Reilly: Yes, sir.

By Mr. Reilly:

Q. Mr. Trendley, I ask you whether or not it isn't a fact that the entire handwriting of whoever wrote this ransom note, nursery note, changes in form, effect and in pressure, beginning with the line that starts "anyding." A. It does. That writer had great trouble writing that letter.

Q. Now we come to the word "notify," and you notice, do you not, that the "t" is not crossed, and yet it looks more or less like an "l," is that right.

Mr. Lanigan: That is the first letter?

Mr. Reilly: N-o-t-i-f-y; yes, it is always the first letter.

A. Yes. You could take it for an "l" with a blind loop.

Q. Yes. No crossing of the "t,"—right? A. No crossing.

Q. No dotting of the "i"? A. No.

Q. Now, look at that "f" and "y," please. In your opinion was that "y" written or printed on? A. Well, the staff and the lateral stroke look like they were—they are so precise, they look like they might have been printed. It wasn't a running hand.

Q. It wasn't a running hand? A. No.

Q. It was not a free hand, was it? A. No.

Q. Now, do you find the word "notify" on Mr. Osborn's chart? A. I do not.

Q. It is not on there, is it? A. No.

Q. There is, is there not, a more or less—and I have got to use words you will not understand in your profession—a compactness; the compactness or closeness in the first three n-o-t's of "notify" in the nursery note? A. Yes, you mean they are pressed together more.

Q. Yes, compactness, closeness. A. Yes.

Q. Now I point out to you from S-111 on ransom notes this word "note," n-o-t-e. A. No, the spacing is not in accordance with this n-o-t-e.

Q. The spacing is not in accordance with it? A. It is not compact.

Q. Visually it doesn't look anything like it, does it? A. No, different line quality, heavy pressure, and the same pressure is maintained all through, upstrokes and down strokes.

Q. And it is wider, isn't it? A. It is.

Q. Freer? A. It is freer than this.

Q. That is what I am asking you. This "notify" as a comparison? A. Yes.

Q. This is freer and yet it is taken from the ransom notes? A. Yes.

Q. And yet this "notify" that I am not referring to does not appear on Osborn's chart? A. It does not.

Q. And that is what I am referring to. A. (Witness nods head.)

Q. While we are looking at it, Mr. Trendley, in Hauptmann's handwriting, n-o-t-e, is there anything at all visual or otherwise that you can compare n-o-t-e in Hauptmann's handwriting to the n-o-t-i of "notify"? A. None whatever. There is a difference in the slant in the ransom letter, the n-o-t is the same pen pressure in n-o-t. In Hauptmann's writing you will find always he has that writing habit of a

light upstroke and a graduated shading in the down stroke. He writes oval and parallel lines, what they would call a modification of the Palmer method, ovals and angles.

Q. You do not find that in "notify" in the nursery note? A. No, that is more of a round hand.

Q. The next word is the "the," "notify the police," is that correct? A. Yes, sir.

Q. It is entirely different, is it not? A. Yes, closely bunched.

Q. Bunched and compact? A. Yes.

Q. Is it not from the "the" at the end of the line 6, "the money." A. Yes. In formation, more compact, different direction of lines.

Q. Does that bear out your opinion that this entire note was written by a left handed man who was trying to disguise his handwriting? A. Yes, sir.

Q. Now, you have told us before that the "the" before "money" was not found on Mr. Osborne's chart. A. I did.

Q. I ask you now whether the "the" before the word "police" is found on Mr. Osborn's charts, and here are some "the's." A. (Examines charts): It is not.

Q. Now, looking at the "the" of Mr. Hauptmann's handwriting, S-111, taken from his request writings, is there any comparison, either visually or in any other way? A. None whatever.

Q. Then this "the" on S-111 or this "the," S-111, and this, as you call it, bunched-up compact "the" on the ransom note? A. None whatever.

Q. Now, the next word is "police," and it appears to be blurred in my photograph, and it appears to be blurred or blotted in the original ransom note; is that correct, Mr. Trendley? A. Yes; he run his hand probably over.

Q. And I take it it was the same condition, in the

same condition now as it was when Colonel Lindbergh found it. A. (No answer.)

Q. Now, with a blur like that it would be rather difficult, would it not, to compare it with anything? A. Well, you could use the "p."

Q. You could use the "p"? Now, does the word "police" appear on Mr. Osborn's chart? A. (Indicates word "police" on chart.)

Q. Now, I am asking you whether the word "police" as blurred and as photographed corresponds to this "police." A. It does not.

Q. Because there is no blur on it, there is no ink on it, on the chart, is there? A. None.

Q. But it is fair to assume they didn't photograph the word "police" in the nursery note? A. No.

Q. Or it would show on here, wouldn't it? A. No, there is a difference in the "p."

Q. Yes. Having established that there is no blur and no ink on this chart headed "Ransom notes," will you now point out to the jury while they are looking at the "p," holding the original here, the "p" in the ransom column while I give them this. A. This capital "P," the staff connects with the upstroke. In the ransom note there is a vertical line drawn and a circle made around the top. The "e," the terminal stroke of the "e" downward is emphasized with impulse, pen pressure. The entire stroke of these, the width of the line, is the same all through. Now in the ransom note this terminal stroke of the "i" is a lateral stroke to the right, follows the base line, and with this would be the base line. There is no resemblance whatever in the capital P's.

Q. Now, is there a word "Police" anywhere through the Hauptmann request writings as indicated on Mr. Osborn's charts? Let's look. A. There is not.

Q. Now we will begin the ninth line, and it begins,

does it not, with a series of symbols or symbolic pen strokes which, when read with the continuity of the line, would indicate that the writer intended that the word should be "the." A Yes.

Q. Does it look like a "the"? A. Well, when you make a close observation you can see it was intended for a "the."

Q. But standing by itself, if you saw it that way, with your hand over the rest of the line, it could be taken, could it not, for u-r-e? A. U-r-e, that is right.

Q. Or a-u-e. A. Yes.

Q. Now we have examined the the's on Mr. Osborn's chart about three times, haven't we? A. The the's, yes.

Q. Do you find this "the" on Mr. Osborn's chart? A. No.

Q. It is neither this one, nor this one, on S-111, is it? A. It is not.

Q. Nor does it correspond in any manner, shape or form, visually or otherwise, with the the's taken from Hauptmann's request writings, does it? A. It does not.

Q. Would that indicate to you that it was printed or disguised? A. No, I think that was written, but he had trouble with it.

Q. The next word is "child," am I correct there? A. "Child."

Q. But apparently it is a "c," an up and down stroke that might be an "u" and "h," is that correct? A. Correct.

Q. Now I call particular attention to the "d" at the end of the word "child" and ask you whether or not that "d" does not appear on Mr. Osborn's charts? A. Does not.

Q. Where is his "d" chart? Over on your side? A. He may have it here. Here is one in "boad."

Q. Now this is Mr. Osborn's "d" chart. I am

referring to S-109. From the ransom note he has taken a "d." A. Printed.

Q. A printed—what did you say it was? A. Printed "d."

Q. A printed "d"? A. It is a German "d."

Q. Is there anything else, any other d's he has taken, small d's? A. I don't find any.

Q. All right. A. (After examining charts): I don't know whether that is intended for a "t" or a "d."

Q. Apparently— A. That is "t," I think.

Q. Looking at Exhibit S-111, do you see the Hauptmann writing column has the word "feet" and the ransom note column has no doubt been intended to indicate the word "feet," is that right? A. Yes.

Q. What I am particularly anxious to know at this particular minute is whether or not— A. Here are our d's now.

Q. How many are there? A. Two. "Find" and "and."

Q. Now, the "d" in the ransom note is a peculiar "d," isn't it? A. Yes, it is.

Q. It looks like one part of a hook and eye, doesn't it? A. Yes, it does.

Q. Do you know what a hook and eye is, women have on their dresses? A. Yes.

Q. Doesn't that look like the hook, that loop? A. Yes, it does.

Q. We will call that a hook and eye "d" for the purpose of distinguishing it.

Q. Now do you find any hook and eye "d's" in Osborn's charts? A. I do not.

Q. Well now, a "d" of that kind to an expert would be more or less distinctive, wouldn't it? A. It would, out of the ordinary.

Q. Out of the ordinary. Now, in fact some of the experts that came here, do you remember, did

have some small "d's" in their charts? A. I think Cassidy did.

Q. You heard Mr. Osborn testify that he had been in the handwriting profession for forty odd years? A. I did.

Q. And how many years have you known him? A. Thirty years.

Q. And you heard him go on and tell about his great experience? A. Yes.

Q. And the number of cases he testified to? A. I did.

Q. Did you, in making your comparison—and you have been forty years doing it—did you in making your comparison pay particular attention to this "d"? A. I naturally would. It is a multifarious looking "d," I don't believe you will find a counterpart of it in the writing.

Q. And yet, we do not find it in expert Osborn's charts, do we? A. We do not.

Q. I now direct your attention to the next word, "I-s," and I believe that you will find for the first time in the ransom notes and the nursery note, some indication of that "i-s" on Mr. Osborn's chart—maybe I am wrong, I am not an expert. Hold it up. A. (Witness examines chart, comparing it with photograph.) (Points to chart.) This is it.

Q. He has photographed it on Chart S-110, correct? A. You notice that this little bulge in the "i" there, that is what identifies it.

Mr. Lanigan: I can't hear the witness.

Mr. Reilly: He says, "Do you notice the little bulge in the 'i,' that is what identifies it on the chart."

Q. Now will you take these other two down, please. That is this, correct? A. That is it.

Q. Now, is it not a fact that looking at that it bears a resemblance to a "v" with a hook on it or a "v" with a twirl? A. Yes, you could call it that.

Q. Now, opposite Osborn's first photographic idea of resemblance from the ransom note, in the ninth line thereof, this "is," he testified that there was a comparison which indicated to him that Hauptmann, who wrote this "is" on the same exhibit S-110, wrote the "is" in the ransom note, the nursery note. What is your opinion? A. He did not.

Q. Will you, for the benefit of the jury as an expert, first casting aside the visuality of the two and the differentiation and difference between the two, point out as an expert the difference to them, between the two. A. The pen pressure in the ransom note is the same all through. In the i-s in Hauptmann's writings that light upstroke and shaded downstroke, light upstroke and graduated shading, ending with a curve, which if carried out would form the oval—an oval writer, oval hand, All their letters in oval writing maintain as a general rule a slant, a curved line, and wherever they end them, continue them like in this one also, it would end in an oval. Now, this "s," this curve here would end in an oval. This is brought around, then the change, the direction of the line which changed with the pen, was left. It would have went in this direction (indicating), whereas this one would have formed the oval for following the system of the oval writer, after you learn that oval writing, your hand always with a slant and a curve, no matter what position the letter ends in, it will be a small loop or probably a larger loop.

Q. Do you find the oval that you have described in "is" of Hauptmann indicative in this "s" alongside of it? A. Here is the same thing; with a continuation it would be an oval.

Q. Do you find any similarity with this (indicat-

ing)? A. No, there wouldn't be. Even the pen pressure is different. The method of making the letter hasn't got that writing movement in the Hauptmann letter. This hand hesitated in making this "i," by the ununiformity of the ink pressure, pen pressure.

Q. Does it indicate to you here that not only one but two strokes were made in making that "i"? A. Well, after he started there was an impulse.

Q. Which created a great pressure? A. Yes.

Q. More ink? A. Yes.

Q. Different lines, different formation? A. That is it.

Q. And in your opinion the man that wrote this "is" did not write this "is." A. No; for if he did, if the hand that wrote this tried to write this, he would not be able to get rid of his unconscious writing habit. He would have made that formation toward a loop. That would be 90 out of 100 times.

Q. Especially if he had written these two, two and a half years difference. A. Yes, sir.

Mr. Reilly: With that may I suspend for lunch?

The Court: Let the people remain seated until the jury retires. You may come in at 1:45.

(The jury retired at 12:31 p. m.)

The Court: The prisoner is remanded to the custody of the sheriff and may now retire.

(The prisoner retired in the custody of the sheriff.)

The Court: The Court will now take a recess until 1:45.

(At 12:33 p. m. a recess was taken until 1:45 o'clock p. m.)

(1:45 P. M.)

AFTER RECESS.

(The jury was polled and all jurors answered present.)

Mr. Fisher: Your Honor, Mr. Reilly has been delayed just a minute. I think he will be here in just a few minutes.

Mr. Reilly: I must apologize for the delay. I was trying to get a witness in through the crowd.

The Court: No apology is necessary.

JOHN M. TRENDLEY, resumes the stand.

Direct Examination (Continued) by Mr. Reilly:

Q. I think we were down to "the child is in goot" and I show you the word "goot." Does that appear on expert Osborn's charts? A. (Witness examines charts.) No, it does not.

Q. Now, will you please look at photographic copy of nursery note, the word "goot" or "good," is that distinctive in its character? A. It is not.

Q. Looking at it is it not composed of a lot of pen strokes, that if it was left by itself it would be very difficult to decipher as to just what it was? A. It would.

Q. In other words, if I was to cover up that line and just show you that series of pen strokes which make that symbol and you had no continuity of the

sentence in which it was included, there would be difficulty, would there not in knowing just what was meant? A. There would.

Q. So that is rather distinctive, isn't it? A. It is.

Q. Would it impress an expert or should it? A. It would, certainly.

Q. It stands out, does it not, as plainly as "public," "anyding" or the word "money"? A. It does.

Q. And did you pay particular attention to the formation and the strokes and the characteristics of that symbolic word in making up your mind and in forming your opinion? A. I did.

Q. And yet you find it missing from the Osborn charts? A. I do.

Q. Now I direct your attention to the word "care" c-a-r-e and ask you whether you find that on the Osborn charts?

Mr. Reilly: Malcolm, will you come here, please?

A. I do not.

Q. So am I correct in saying, Mr. Trendley, that we now have nine lines of a letter which contains twelve lines, the nursery note, and the only symbol or letter or word in the Osborn chart that corresponds to this nursery letter in nine lines is one word, "is"? A. Correct.

Q. Now may I direct your attention to a series of penmanship strokes beginning the tenth line, and ask you whether or not you are able to decipher the intention of the person who wrote it? A. Well, it would be very hard for some people to decipher that.

Q. Is it not a fact that it is the continuity of strokes, the formation of certain letters which are decipherable, and many strokes which are not? A. There are.

Q. Does it appear to you in your opinion as an expert to have been written— A. As it has, yes.

Q. —by the right or left hand? A. I think the left hand.

Q. Taking the balance of the sentence, are you able to place any significance or interpretation upon the first part of the sentence that I have referred to? A. To get the meaning of it?

Q. Yes. A. I did.

Q. And what was the meaning that you drew from that long, as I call it, scribble of lines? A. Indication.

Q. Now if it were not for the balance of this sentence, would you be able to determine the word "indication"? A. Well, I might—

Q. From that jumble of penmanship strokes? A. I might after figuring the conformation of a few of the letters.

Q. Of course it is not spelled correctly in English, is it, as written here? A. No.

Q. After a great deal of study there might be a phonetic connection, is that correct, a sound connection? A. Well—

Q. In-do-ko-shun. A. Yes, a phonetic sound.

Q. Now that in itself, its spelling, its formation, its chirography, would that indicate to an expert that it was something that should be carefully studied? A. Certainly.

Q. Does it demonstrate to you a desire to disguise the handwriting in the nursery note? A. Well, I wouldn't—Yes, it would.

Q. You notice, do you not, above the word "deliver" spelled correctly? A. Yes, sir.

Q. The word "informed" is spelled correctly? A. It is.

Q. The word "public" is printed and spelled correctly? A. It is.

Q. The word "notify" is spelled correctly? A. It is.

Q. The word "offer" is spelled correctly? A. It is.

Q. "Informed" is spelled correctly? A. It is.

Q. And yet, when it comes down to "indication," it is not spelled correctly, is it? A. The last, t-i-o-n, you could take that for "h."

Q. It could be s-c-h-o-r-n, could it not? A. You could make two or three—

Q. Three or four, or two or three trans— A. Substitutes.

Q. —translations, is that correct? A. Yes.

Q. Now, would an expert of your years in translating questioned documents be inclined to pay particular attention to such a symbolic writing? A. Certainly would.

Q. And did you? A. I did.

Q. And did you study it? A. I studied that entire page.

Q. And did you compare it with the ransom note that followed and the request writings of Hauptmann? A. I did.

Q. And in your opinion of forty years as an expert, testifying in over 387 cases, in all the courts of the United States that you have testified to here, did that strike you as some symbol or collection of pen strokes which should be carefully studied for comparison? A. Why, certainly.

Q. Do you find it in the Osborn writings? A. I do not.

Q. The next word f-o-r—do you find that in the Osborn writings or charts? A. Do not.

Q. Now I call to your attention the f-o-r that follows "indication" or I will go back—withdrawn. Might not that be intended for "instruction for all letters"? A. You mean the word "indication"?

Q. Yes, or whatever it means. Might it not be

just as well interpreted "instructions for all letters are signature"? A. Well, you'd have the i-n-s-t with which I changed by former opinion, afterwards was the German "d"—it would have been i-n-s-t, that you could—

Q. Well. A. You could read it that way.

Q. But assuming that a person who wrote perfect English, was not writing German at all, had a desire to disguise his handwriting, could not this word with the following words afterwards be just as well taken as "instructions" or "indications"? A. Yes, i-n-s-t.

Q. "Indications for all letters are signature" or "Instructions for all letters"? A. Yes, sir.

Q. "Are signature"? A. Yes, sir.

Q. Now I want you to pay particular attention to the "for" following the word "instructions," the word "for" that follows "public"—"for notify the police and we warn you for making anyding public." Look at those three for's, do you see them? A. I do.

Q. They are all different, aren't they? A. All three dissimilar.

Q. Now, turning again to the for's on the charts of Expert Osborn is there any one of the for's in the ransom nursery note that corresponds to Hauptmann "for," "for" on State's Exhibit S-112? A. None.

Q. Where, in your opinion do they differ? Let me have this while you explain it. Put it on the wall. (Large photographic enlargement placed on wall.) A. The two for's, f-o-r, are both in the same slant; both have curves in the connecting line between the "f" the "o" and "r"; the same light upstrokes, and I should say they are in the same writing habit.

Q. These have a more or less angle to themselves,

haven't they? A. Yes, in the slant and everything else.

Q. In the slant? A. Yes.

Q. You are familiar, more or less, are you with German handwriting? A. I have become acquainted with it a good deal.

Q. Does the German handwriting more or less slant that way as indicated in Hauptmann's writing? A. Yes. It is like the American or English method; it is all from the Latin script, both of them.

Q. Now is there any comparison that you can find between the "for" indicated in the ransom notes and the three for's, which are entirely different one from the other that I have shown you in the nursery note? A. Everyone in there, I notice the last stroke, the terminal stroke of the "r" is a right hand lateral stroke; the "r" in one case, extending up at an angle, as I remember.

Q. The next set of symbols apparently was intended for the word "all," am I correct? A. Yes, that is right; by reading the entire line you would know it.

Q. It could be taken, could it not, for an o-h? A. Yes, and an o-s-t. It could be taken for several things.

Q. It could be taken for several things, couldn't it? A. Yes, the letters are all very indefinite.

Q. Does that indicate to you a disguised handwriting? A. I guess I would think of it as a disguised hand.

Q. It is a particular and peculiar combination of pen-strokes, is it not? A. It is.

Q. It does not, to the visual eye of an American, spell "all," does it? A. No.

Q. Nor is there any indication that it spells the German word "alles," a-l-l-e-s, "alles," does it? A. No.

Q. Nor the Italian word "fialta," f-i-a-l-t-a? A. No.

Q. It is a combination of strokes, is it, which, when taken with the context of the sentence, leads one to the impression that the person intended the word "all"? A. It does.

Q. Is it significant? A. It is.

Q. Is it unusual? A. It is.

Q. Is it such a distinctive character that a man of twenty years' experience or any expert of five or ten or fifteen years should have devoted attention to those characters? A. Certainly would.

Q. Would it be contained in his impressions and in his memory upon which he formed his opinion? A. It would.

Q. Do you find it in the Osborn chart? A. I have never noticed it.

Q. Well, will you look so there will be no doubt about it?

Mr. Fisher: Mr. Reilly, there are the books there. There are the books.

Mr. Reilly: Thank you. These are not the books.

A. (Witness examines chart.) Do not.

Q. Now the next word is another blurred word and apparently is intended for the word "letters," correct? A. It is.

Q. And in your opinion was the blur or blot made when the letter was written? A. It was.

Q. So that the photographic reproduction of this word "letters" would have on the photograph or chart, the blur? A. It would.

Q. As well as the writing? A. It would.

Q. Will you examine the chart, please, of Mr. Osborn and see whether or not there appears upon

it any word "letters" that has been blurred under the column "Ransom notes"? A. They do not—do not.

Q. The next word is "are," a-r-e; is there any such word on the ransom, or rather on the Osborn chart? A. (Witness examines charts) Do not.

Q. Then am I correct in saying that in the first ten lines of the nursery note the only symbol or word out of the ten lines photographed by Mr. Osborn from which he makes his comparisons and his opinion is the word i-s. A. I-s is the only word.

Q. Now I call your attention particularly to the word "singnature" do you find that? A. I do.

Q. On Mr. Osborn's chart? A. I think I do. Let me see that. (Witness examined ransom note.) I find it on Exhibit S-109.

Q. Is that the only place you find it? A. That is all.

Q. In its entirety on the ransom notes? A. That is all.

Q. And would you say that this S-109 is a photographic reproduction of the word "singnature" on the ransom note? A. I would.

Q. Now in your examination of the request writings you did find that Hauptmann wrote the word "singnature" as spelled here, did you? A. I did.

Q. Now, do you find anything in the Osborn column of Hauptmann request writing, comparative writing, where he has the word "singnature" as written by Hauptmann photographed? A. I never have.

Q. Now let us take—Have you in your folder there the chart of any other expert who compares "singnature" of the nursery note with anything Hauptmann ever wrote, in its entirety? A. No, I haven't in this one. I don't think there was, I don't remember.

Q. Well, if there is the Attorney General very likely will ask you on cross-examination.

Q. Now, I call attention to this exhibit, the nursery note, and ask you whether or not the "S" beginning "singnature" is not more or less missing. A. It is not legible.

Q. It is not legible? A. No.

Q. In fact, there is a certain portion of the downward stroke of the "s" that didn't respond to the pen,—am I correct? A. Yes, you are right.

Q. Do you think it would be safe for any expert to pass an opinion upon an "s" that was not fully made, such as this "s"? A. No, I wouldn't.

Q. Now, I ask you to look at the "g," s-i-n-g (showing exhibit S-18 to the witness). Is there any difference from that "g" and some of the other g's in the ransom note? A. In the one in "making" there is a vast difference.

Q. And that is the "g" at the end of the seventh line? A. That is it.

Q. The "g" in the word "making" extends to the right like a right angle? A. It does.

The "g" in "singnature" is a more or less straight up and down double loop oval; correct? A. Correct.

Q. Did that demonstrate to you that it was a disguised writing? A. It sure would be, because there are so many different directions of lines, formation of letters.

Q. Is it not a fact in this ransom note left in the crib that one part is straight up and down and the rest, another part, rather, is to the left, another part to the right there is a continual variance in the writing and printing? A. All throughout.

Q. All throughout. Now I ask you to pay attention to the "a" in "singnature." A. That is distorted like an "o" laying over on its left side.

Q. It is a distorted "a," isn't it? A. It is.

Q. It looks like an "o" that somebody bent and pressed down? A. Laying over on the left side.

Q. Now I ask you to look at Hauptmann's writ-

ing and I am going to point to a's. I now point to Exhibit S-109, the "a" in "hands," is it anything like the "a" in "singnature"? A. It is not.

Q. And the "a" in "and"? A. It is not.

Q. And the "a" in "at"? A. It is not.

Q. And the "a" in "sa"? A. It is not.

Q. And the "a" in "year"? A. It is not.

Q. And the "a" in "year," Exhibit 108? A. It is not.

Q. And the "a" in "was"? A. It is not.

Q. Or the "a" in "was"? A. It is not.

Q. Or the "a" in "Avenue"? A. That is a capital.

Q. A capital. Now I ask you to look at the latter part of "singnature," t-u-r-e is there anything in the Hauptmann writing as shown by Mr. Osborn's charts, any sample t-u-r-e from any of the Hauptmann request writing? A. (After examining charts) There is not.

Q. We now have eleven lines of the note found only one i-s on Osborn's chart? A. And another one, in the nursery, and we find in the eleven lines, do we, "singnature," two of them. I-s and "singnature."

Q. But on his chart as to "singnature," you do not find any comparative word spelled the same way or anything like it in the Hauptmann request writings? A. None whatever.

Q. Now we come to the last line of the nursery note a-n-d, "and" and I ask you to look at that "d." Does it appear from that "d" that the pen skipped in part of the stroke and no ink was registered? A. It does, that looks like a-n-s-l.

Q. A-n-s-l? In fact, is there not a loop to the left on the first stroke of what we read as "and" reading the intention of the note. A. Of the last letter, do you mean?

Q. Yes. A. Yes.

Q. Now, is there anything on Mr. Osborn's chart

that corresponds to that "and"? A. I find one "and," two and's, they do not correspond.

Q. You are now pointing to and's on Exhibit 112. Does this "and" correspond to the "and" on the ransom note? A. It does not.

Q. The ransom note "and" differentiates from the "and" on S-112 in what manner? Please tell the jury. A. In the letter "a," this is the oval, these a's, the length is about one and a half times the width, or one and a quarter. These slant is different. The "d" is different. Instead of—We have a-n-d with a little upstroke and a heavy downstroke, and we have the same in the "and" on the fifth line. The "d" downstrokes all show that curve of an oval writer.

Q. And the "and" in the nursery note stands up more, doesn't it? A. I think it slants to the left—yes, left, and one part of the "d" looks like a letter "s," the loop part of the "d," the shoulder.

Q. You don't find that "and" on Mr. Osborn's chart? A. No.

Q. You don't find the figure "3"? A. No figures whatever.

Q. Now, the last word "holds," h-o—something, do you find that collection of pen-strokes—the last word in the note on Mr. Osborn's chart? A. I know that is not on there.

Q. Speak up louder, please. The jury want to hear you and the reporters want to hear you.

Mr. Lanigan: Yes, I can't hear you.

Mr. Reilly: I mean the court reporters.

A. "Holds" is not on the chart.

Q. Now calling your attention to this particular word "holds," does it not appear that after the word was written an added loop was put over the third

letter? A. (Examines note with glass.) No, I think that was written in its entirety.

Q. With a lighter stroke? A. Yes.

Q. You don't find it on Osborn's charts? A. No, sir.

Q. So taking the whole ransom note from top to bottom, we find that Mr. Osborn, testifying for over forty years all over the country, with samples of the defendant's handwriting before him, and with this note, the first note found in the nursery, as a comparative test upon which he makes his observations and opinion to this jury, picks out the word i-s "is," and compares it with i-s's of Hauptmann's is that correct? A. It is.

Q. Picks out the word "singnature" and compares it with nothing on the chart from Hauptmann's writing. A. That is correct.

Q. In your opinion would that be sufficient to send a man to the electric chair?

Mr. Lanigan: That is objected to.

The Court: The objection is sustained.

Mr. Lanigan: I ask the Court to instruct the jury to disregard counsel's remarks.

The Court: I didn't hear the remark.

Mr. Reilly: It wasn't a remark it was just a question.

Q. Now, Mr. Trendley, you have given a great deal of thought to this case, haven't you? A. I should say I have.

Q. In fact you volunteered your services in this case, didn't you? A. I did.

Q. From St. Louis, is that right? A. Yes, sir.

Q. And you have been here— A. The second time in my life.

Q. The second time in your life? A. That I ever did.

Q. And you have been here in Trenton and in Flemington, giving to this case your best opinion, since about two weeks ago last Saturday, is that correct? A. Yes, sir.

Q. I want to call your attention, please to some other letters and then I am through with you. You have indicated to me, have you not, that you would like to speak about some comparisons? A. Yes, sir.

Q. In the a's. A. Yes.

Q. Am I right about that? A. And the k's.

Q. Well, now, will you get the chart, or is this the chart that you want, on a's? A. That will be all right.

Q. Now, I point out to you the column Ransom Notes and I point out to you the Hauptmann Request writing, and I will ask you in your own language to explain to the jury your opinion of the differentiation between the a's that you wish to speak to us about. A. Well, in examining the ransom notes, I think there were something like over three hundred a's, and I find all through the a's it is a round form or what you call a square form "a," entirely. In all of the request writings I find, and the other writings, I find the a's of the oval form, in which the height exceeded the width. Now my contention would be that no man—it would be humanly impossible, no matter how skillful a writer you were, to write fourteen letters at fourteen different intervals without injecting some of your characteristics. It is an unconscious movement, a nervous reflex, and is independent of the writer's own will, and I would expect to find over half of his characteristics in those ransom notes, if Hauptmann ever penned a line in it.

Q. Now— A. That's what handwriting is based on, is on characteristics. You form these letters after you leave school. Then your individuality is inserted when you are about eighteen or twenty, and that's the—some do it for cutting the words quicker, some for monogrammic effect, some for an easier, more facility of movement, by a better connection of letters. And the way you write at twenty or twenty-five, you write at eighty that is, as far as the characteristics are concerned.

Q. And you took that into consideration in forming your opinion in this case? A. Yes, sir, I know I couldn't do it, I know I couldn't write five letters without putting some of my characteristics, that would be different than trying to imitate a writing.

Q. Let's look at some other letter that you wish to speak about. A. "K."

Q. "K." Will you indicate in your opinion the difference in the K's between the writing by Hauptmann, the defendant, and the photographs of specimens taken from the ransom notes. A. This "K" (indicating on a chart) reverts to the left, terminal stroke, ending to the left. In all of Hauptmann's writings, he makes his "K" to the right, three-line, three-stroke "K." Now in examining the ransom letters, fourteen letters, I think, fourteen days apart, I found 39 "K's" and every "K" in it was turned to the left. I never found a "K" of Hauptmann's style of writing, and in the request letters written two years after, I found I think it was 27 "K's" that he was asked to write, words like "back," and "deck," and some of them have four and five in one letter and he never deviated from his own handwriting and never put a "k" in turning to the left. I think that is the most outstanding characteristic in this whole case of the ransom letters, that a man two years after—if Hauptmann wrote those letters, he would have to disguise all his letters and he couldn't

carry 26 letters in his mind while he was writing, he was bound to put some of the characteristics in.

Q. Especially over a period of two and a half years? A. Why, if he was doing it now, at present, at any time, but two and a half years afterwards, he never injected a letter of his own handwriting.

Q. So all of the "k's" that you speak of turn to the left. Well, let's look at this one, because you will be asked about it, "New York," this turns to the right (indicating on chart)? A. I know it.

That is a multifarious letter, there is no connection at all with who wrote that.

Q. What does this indicate to you in the form of— A. Now—

Q. —pressure, lineage, spaceage and general characteristics in comparison to Hauptmann's automobile license, "New York"? A. Well, there we have the same old habit in Hauptmann's writing, the little upstrokes, angles, loop writing here, this is backhand, slant wrong (on ransom note chart). The same pressure of the pen and all, it is not shaded whatever it is just what we call involuntary pen pressure, the same amount of pressure throughout the writings, while Hauptmann uses voluntary in his up-strokes, and a graduated down pressure shade; that is his natural handwriting, a downward pressure. This is demonstrated here, upstroke, down (indicating on admitted side of chart).

Q. Now, there is some other letter that you are speaking of, a's, d's, k's? A. Well, you can speak about anything, I guess, in this writing.

Q. Now I want to call your attention to one more letter before I am through, and that is the x's. You have made a study of them, have you? A. I did.

Q. Now I show you this "x" in the ransom note. Now from your familiarity with those writings, those who had been born in Germany or Scandinavia or the countries, Austria Hungary, Czecho-

slovakia, and those countries that run and did run under the Teutonic influence prior to the War is it not a fact that a great many people coming from those countries write an "x" like this? A. They do.

Q. Now I show you the "x" in Hauptmann's handwriting. There is a differentiation, isn't there? A. Yes.

Q. While it might be true that the general form in making it may appear visually apparent there is a differentiation, is that correct? A. There is, even in the writing movement. It fits in as a family group in Hauptmann's writing while this fits in as a family group in "next," but they wouldn't harmonize put together as one group, the "x." That is too stiff in the ransom note.

Q. You have seen many specimens of x's have you not, since you have been making examinations in this case of handwriting from different people that correspond with Hauptmann's "ex." A. Well, I had I first heard of this case on September the 24th and I was in Springfield, Illinois. I was examining the Communistic ticket for the State Election and they were

Mr. Lanigan: That is objected to.

The Court: Objection sustained.

Q. Now you also heard Mr. Osborn say that in all his experiences as an expert and all the times he testified that it struck him as unusual and a personal characteristic unto the defendant alone that there was a hyphen between "New" and "York." You heard him say that, didn't you? A. I was surprised.

Q. You heard him say it? A. Yes, all eight of them.

Q. And how many envelopes and letters have you examined since Mr. Osborn made that startling dec-

laration from all parts of the world and every one of them had a hyphen between "New" and "York"? A. I guess a hundred and something.

Q. Do you want to see some of them? A. Well, I have got a whole lot in here, too.

Q. Well, here are a few more if you need them. (Witness examines papers.)

Q. They all bear the hyphen, do they? A. Certainly.

Q. And is it not a characteristic of the foreigner who writes "Potsdam-Berlin," "Austro-Hungary," "Buda-Pest," "Roma-Italia," to always put in his hyphen? A. Certainly.

Q. And when communicating with people in New York or any place in the United States where there is an opportunity to hyphenate, even in the word "Pittsburgh," do they not put in a hyphen? A. Yes, sir.

Mr. Reilly: You may take the witness.

The Witness: It is a manual— Nothing.

Mr. Reilly: May I now mark the hyphenated envelopes in evidence? They were marked for identification before.

The Court: Were they?

Mr. Reilly: Yes.

The Court: Is there any objection to that?

Mr. Lanigan: What are they?

The Court: They are the hyphenated envelopes.

Mr. Reilly: They are the hyphenated envelopes that were shown to one of the handwriting experts that you produced. They were marked for identification.

Mr. Lanigan: I object to them.

Mr. Reilly: You object?

The Court: You do object to them?

Mr. Lanigan: Yes, I object to them. What purpose do they serve?

Mr. Reilly: They are contradictory of Mr. Osborn.

Mr. Lanigan: You would have to lay that foundation by the witness.

Mr. Reilly: What witness? We asked Mr. Osborn if he—

Mr. Lanigan: Well, the person who collected them, the person who had them, how do we know—

Mr. Reilly: Well, if you are going to stand on technicalities I don't want them. If you want me to bring every woman that got those letters from New York I will bring them.

Mr. Lanigan: Is that a threat?

Mr. Reilly: No, that is an answer to your objection.

Cross-Examination by Mr. Lanigan:

Q. Now, Mr. Trendley, do I understand that you offered your services in this case to the defense? A. Yes, sir.

Q. And you offered your services in this case prior to the time you had examined the documents? A. Yes, sir; I had seen some copies of the stuff. I saw several of these wood cuts or paper cuts.

Q. What do you mean by paper cuts? A. Well, newspaper clippings.

Q. In other words, you had formed your opinion then from newspaper cuts? A. No, but I saw some things that were very indicative to me that Hauptmann did not write these letters.

Q. Well now, tell me what you saw? A. Well, at the time I saw pic—letters picked out.

Q. What letters? A. The American at Chicago, the Chicago American.

Q. Yes. A. Letters picked out of both writings, ransom letters and this.

Q. And when was that? A. September 24th at Springfield, Illinois, and I had a Springfield Record, I believe the name was, also had some pictures of the—

Q. On September 24th, 1934, the Springfield— A. I think that is the date, yes—Record, I think.

Q. The Springfield Record had what? A. Pictures of some of the signatures and writings.

Q. I see. A. Well, in fact, they were all publishing them right about that time, but I noticed them then.

Q. Well, we will narrow it down to one publication, on September 24th you saw in this Springfield paper a picture of these request writings? A. Yes.

Q. Now, Mr. Trendley, when you testify as a witness, you frequently prepare charts and enlarged

photographs to illustrate your testimony, do you not? A. Sometimes we do.

Q. Sometimes. How often do you do that? A. Well, if it is a big case like this—

Q. Cases of major importance? A. Yes, cases of major importance.

Q. Cases as big as this? A. Yes, certainly.

Q. Yet, in a case like this you prepared no charts, did you? A. How could we when you wouldn't surrender nothing.

Q. Who? A. You. You didn't even want to let me look at the original.

Q. When was that? A. When I was down at Trenton for two days and got two hours on them.

Q. Have you since requested them? A. I had a time getting these copies from you.

Q. When did you get them? A. About ten days ago, I think; I don't remember. I was tired waiting for them.

Q. So your opinion then is based on your two hour and a half examination of the original documents? A. That, coupled with day and night on these books.

Q. I am speaking now of the original documents. A. Oh, I wanted to get a glimpse of it.

Q. But you had two hours and a half in which to consider all the original documents? A. How could I examine them? There were four or five others there; they were passing them around; you couldn't get a good examination.

Q. Somebody else was there? Who else was there? A. Mr. Goodspeed and some ladies and another gentleman.

Q. Mr. Malone there? A. Yes, sir.

Q. Mr. Meyers there? A. Yes.

Q. You examined the papers in their presence? A. Whenever you get a paper, somebody will be shuffling them up and then you would have another paper.

Q. Did you discuss the ransom notes with them? A. I didn't, not with Colonel what's-his-name, whatever you call him.

Q. How many pieces of conceded writing are there? A. I think there are 16, I think.

Q. Sixteen. How many pieces of genuine writing are there? A. About 10 or 12, I suppose.

Q. Be accurate about it. It is important. A. I don't know.

Q. You don't know how many pieces of genuine writing there are, do you? A. I can't tell you what I had.

Q. All right. A. I have got nine of the auto's and the agreements and I think 13 of these.

Q. That is 22? A. Yes.

Q. How many ransom notes are there? A. Fourteen, I think. I just had the book.

Q. You didn't have the notes? A. I had them for about two hours,—some of them.

Q. Only some of them? A. Yes.

Q. So then your opinion is based on only a partial examination of the ransom notes? A. No, it is mostly on this book.

Q. I am speaking of the original documents. Answer the question. A. I did. It is made mostly on this book, photographs.

Mr. Lanigan: I submit the answer is not responsive.

The Witness: You asked me how I made my examination. That is what I made it most of.

The Court: He says they were made mostly on this book of photographs. I think that is responsive. It may not be complete.

Q. How many envelopes accompanied the ransom notes? A. I never counted them; they are attached in the book.

Q. How many? A. Probably four or five, I suppose.

Q. Four or five? A. Probably.

Q. Would you be surprised if I told you there were twelve? A. Maybe there was.

Q. Did you examine the wrapper in which the sleeping garment was contained? A. Yes.

Q. All right. Now how many pieces of conceded writings have you? Add them up for me. A. What do you mean? The dictated?

Q. Yes. A. I have thirteen.

Q. Thirteen? A. I think somebody else has got a couple more.

Q. All right, thirteen. And you say there are how many pieces of genuine writing? Ten? A. Yes.

Q. That's 23. Fourteen ransom notes? A. Yes.

Q. How many is that? A. 37.

Q. 37. 12 envelopes? A. 49.

Q. Sleeping wrapper? A. 50.

Q. Now you have examined 50 documents in two hours and a half? A. No. I told you we just looked them over casually; they were shuffling them up and passing them around.

Q. In other words, you made a cursory examination of them? A. I did on the originals, because we didn't have the time.

Q. That's right. A. And you didn't give us the time.

Q. That's right. Now when did you first render your opinion that Bruno Richard Hauptmann did not write those notes? A. Oh, I don't remember the day or what time.

Q. Well, it is a pretty important thing, isn't it, that opinion? A. No.

Q. It isn't? A. I don't know why. The fact is that I rendered it, no matter what time I rendered it.

Q. How long after your examination did you render your opinion? A. I don't know.

Q. Had you rendered an opinion prior to your examination of the original documents? A. I don't think so.

Q. Well, can't you be positive about that? A. No, I don't, I was examining them, I wasn't keeping books on every transaction was made.

Q. Didn't you and Mr. Malone and Mr. Meyers discuss these ransom notes and they disagreed with your conclusion? A. No, I didn't speak to them.

Mr. Fisher: I object to it.

The Court: One moment.

Mr. Fisher: That is objected to.

Mr. Lanigan: In the presence of the witness.

Mr. Fisher: Oh, in the presence—

The Court: He answered No, didn't he?

Mr. Fisher: Very good.

Q. Now, you say that in cases in which you make photographs, cases of major importance, do you photograph every letter, every word? A. Sometimes.

Q. In what case did you do that? A. Oh, I don't remember.

Q. You don't remember the case in which you did that? A. No.

Q. Did you ever do it in any case, make a complete photographic— A. You mean just—

Q. —reproduction of every word and every letter? A. You mean of the letters or of the entire letter?

Q. The entire specimen submitted for examination? A. Oh, yes.

Q. Every word and every letter? A. We did that in the Thomasson case, we just photographed every exhibit.

Q. I see. That is the case you testified about yesterday, isn't it? A. Yes.

Q. The Thomasson case in which you reversed your opinion? A. Oh, yes, that has been done for three years.

Q. Yes. Now even though you may photograph every word and every letter, isn't it customary to produce only part of your charts or part of your letters? A. Well, I don't know. I shouldn't think you would do that. We didn't do it.

Q. I see. Now, as a matter of fact, you don't know whether or not Mr. Osborn photographed every one of these, do you? A. I don't know whether he photographed any of them or had them photographed. I wouldn't know.

Q. Well, what do you think these are? What are these charts? A. They are enlargements.

Q. Of what? A. Of photographs.

Q. Whose, made by whom? A. Osborn, I suppose.

Q. When did you first see them? A. Here in court.

Q. When? A. When he testified.

Q. And your opportunity to examine them has been what? A. Every day since I have been here.

Q. I see. From your examination, do you think this correctly depicts the ransom note, the writing in the ransom note? A. What do you mean "depicts?"

Q. Is that a pictorial representation of the writing in the ransom note? A. No.

Q. It is not? A. No.

Q. And this is not a pictorial representation of Hauptmann's writing? A. Yes.

Q. And this is what? What do you say that is then? A. This is all— there are so many changes in that writing, but—

Q. Possibly you don't understand my question. Do you think the words here, taken in here, take any one— A. As a whole?

Q. Yes, as a whole. —are taken from the ransom notes? A. Yes, that is correct.

Q. Therefore, it is a correct pictorial representation? A. Of the ransom notes.

Q. All right. Now, do you see any similarities in those writing? A. (Witness examines chart at length) No.

Q. I see. How about misspellings? A. H-t-e.

Q. Yes. What does that spell? What does h-t-e spell? A. H-t-e-.

Q. How do you pronounce it? A. I wouldn't know how to pronounce it.

Q. An unpronounceable word? A. Certainly.

Q. I see. And the fact that h-t-e appears one, two, three times in the Hauptmann writings and the same misspelling, h-t-e, appears in the ransom notes has no significance to you? A. Not when I understood how this h—— this Hauptmann writing was made.

Q. How do you understand it was made? A. It was made under the police.

Q. Who told you that? A. I understood that they were.

Q. From whom? A. Why we all know it, at Trenton, all the dictated— dictated letters— were taken in a police station.

Q. What police station? A. I don't know. It wouldn't matter where it was.

What is the source of your information as to that? A. I don't know where I got the information, but that was the impression. I knew I was told.

Q. It is an impression now, is it? A. Yes. I wouldn't take anything written in a police station.

Q. Why not? A. Huh? That is in regard to misspelled words. You would spell what they tell you to spell.

Q. Now let's clear that up. You say you wouldn't take anything written in a police station? A. In regard to misspelled words.

Q. Where were the notes that were taken in the Thomasson case written? A. There were none of them written in a police station.

Q. Sure of that? A. Uh huh; I am almost sure.

Q. Do you see any similarity between the B-r-o-n-e-e, presumably Bronx, and the n-e-e-t— any similarity in those x's? A. No. As I stated before, the one over in the ransom notes is more like it is drawn; it is stiff.

Q. I see. No similarity at all? A. No actual slant.

Q. In other words there is no similarity? A. In the loops, there is two open loops in the "Bronx"; in the other one, there is blind loops.

Q. Well, here it is again in the word "expenses" isn't it? A. Yes.

Q. No similarity between them either. A. That is different than the others.

Q. I see. A. The pen pressure there; there is an impulse made— that has been written over, that's one of the patched lines, this is. We examined that under the microscope, and that's patched. That was made this way and corrected. That has been worked over.

Q. Now take this word l-i-h-g-t; in the Hauptmann writing, and come over and take this r-i-g-t-h. A. Well, they are spelled different.

Q. All right. What would that indicate? A. Well, I wouldn't know about how a person would transpose a letter. My wife does that once in a while. (Laughter in the court room.) And she is pretty well educated but just in writing she will put— in writing "surly" she will write s-u-r-e-l-y.

Q. Well, I am perfectly willing to concede that, after having matched wits with you.

Q. Now, have you examined any other charts presented in this case except the Osborn charts? A. Yes, I had—

Q. Who else? A. I think all the others, Tyrrell, Clark Sellers—

Q. Which charts of his did you examine? A. Well, the result was that I found a great many of them had pretty nearly all the same words, and I just used Osborn's from then on.

Q. Did you examine Walter's chart? A. Yes.

Q. Did you examine Cassidy's chart? A. Cassidy? I think his was the loose leaf.

Q. Was it or wasn't it? A. I think it was; I don't know.

Q. Did you hear Mr. Osborn testify that he had examined every word in the ransom writing? A. I think I did.

Q. Returning to the original documents, to clear it up in my mind, you have examined these 50 pieces of writing in two hours and a half in the presence of eight other people; is that it? A. Yes.

Q. Would you call that a cursory examination? A. It was then.

Q. Highly cursory? A. Yes.

Q. Do you find any similarities in any of the ransom notes and any of the Hauptmann writings?

A. Similarities? I did in the— but there were— this is the one (indicating on chart on wall.)

Q. Point out the similarities that you found in the Hauptmann writings and the ransom notes. A. That is the only one, that "t"; it was wider, more of a triangle in Hauptmann's, made over toward the upstroke, more to the left.

Q. So that there are similarities? A. Very true.

Q. Now, I understood you to testify that the first note, the crib note, had been written with the left hand? A. Yes.

Q. How did you determine that? A. Well, I practiced myself, and I—

Q. Show me how you practiced? A. Well, I found in writing that I had great trouble, I couldn't use my wrist, because my whole weight was laying on my wrist.

Q. Yes. A. Now, I would write (witness writes on pad) "have" (using left hand,) that is what I found on these, terminal strokes get away from me.

Q. Now, write it with your right hand. A. (Witness writes the word "have" on pad) Well, I would write it at a different slant with my right hand.

Q. Now, if a person wrote the crib note, the first note, with his left hand and wrote the subsequent notes with his right hand, they naturally would be different, wouldn't they? A. He wrote four lines of the second with his left hand.

Q. Of the second? A. Then, he turned to his right hand.

Q. So that the difference in the use of hands would account for the dissimilarity? A. Oh, it is very striking.

Q. Very striking. Did you find any evidence of disguise in the request writing taken at Police Headquarters? A. Attempted disguise. No, I found one letter that there were five lines written and the other was changed, and I thought probably that was written

the next day or so, I don't know— that would have a change.

Q. Did you find any evidence of disguise in the remaining ransom notes after the first note? A. No.

Q. In other words, the remaining— A. The disguised note would be harder to do than to simulate one.

Q. Now, you studied these ransom notes thoroughly, didn't you? A. I have.

Q. And you have studied the request writings thoroughly? A. Yes.

Q. All right. And you are familiar with disguises? A. Yes.

Q. Now, I show you State's Exhibit S-160 and ask you to indicate which is the natural writing and which is the disguised writing? A. (Witness examines photographic charts in his hand.)

Q. Can't you tell by looking at the chart? A. I want to see if I had a copy of that. (Looking at S-160) That is the one I told you there was a difference after the fifth line in the writing. And I suppose that he probably stopped writing and then wrote probably the next day. I don't know the conditions under which this was written. It may have been written a week after.

Mr. Lanigan: Repeat the question, please.

(Question read as follows:

"Q. Can't you tell by looking at the chart?

"A. I want to see if I had a copy of that.")

Mr. Lanigan: The question ahead of that.

(Reporter read as follows:

"Q. Now I show you State's Exhibit 160 and ask you to indicate which is the natural writing and which is the disguised writing.")

Q. Come down and take a look at it. Study it. A. (Witness leaves stand and examines exhibit.) I don't know what you mean by the disguise of the writing.

Q. Is there any difference in the two writings? A. I explained that there was. I thought they were written at different intervals.

Q. By whom? A. By Hauptmann.

Q. In other words, you swear that is the writing of Hauptmann? A. No. I say that was given to me, though, as a standard, I think, that writing was.

Q. What is this? A. This is a copy of it.

Q. What does that chart indicate to you? A. That chart, when I got it, was supposed to be a standard.

Q. Did you compare it? A. Well, I wouldn't compare, when it is given to me as a standard.

Q. Standard for what? A. To compare with Hauptmann's.

Q. With what? A. With Hauptmann's writing.

Q. Did you so compare it? A. With the ransom notes.

Q. Is all the writing on that chart from the ransom note? A. I don't know. I am taking your word that that was a copy of Hauptmann's writing and it was an accepted standard, written as I thought at different intervals.

Q. That's your explanation of that chart? A. Yes, sir.

Q. How many misspelled words did you find in the ransom notes? A. Right.

Q. What? A. Right; h-t-e.

Q. Yes. A. There may have been some others; I don't remember now.

Q. You only discovered one? A. H-t-e and right. spells t-h-e,—

Q. What else? A. That is all, I say, I can remember.

Q. Well, you have been studying them for ten days you say. A. I wasn't looking for misspelled words; I was looking at the writing.

Q. Well, wouldn't you regard misspelled words as a distinctive characteristic of these notes? A. No, not when I am looking for a handwriting, because it is so easy to transpose a letter.

Q. Did you find the word "boad" b-o-a-d? A. Yes, I found that printed; that was printed.

Q. If somebody was imitating Hauptmann's handwriting, wouldn't he have to be familiar with his misspelling? A. No, because I see where he spells t-h-e,—

Q. Wouldn't he have to be thoroughly— A. —h-t-e, in the dictated letters, but I thought he might have been told to spell them that way. He writes the,—

Q. Wouldn't he have to be thoroughly familiar with his grammar? A. Yes. I noticed there were some mistakes.

Q. Wouldn't he have to be thoroughly familiar with his vocabulary? A. Well, I don't know about a man changing his writing from German to American, and learning in the American after being taught the German language. I can tell you an explanation of one thing I found in there.

Q. All right. Let's have that. A. I find whereever he used the small "y" he made a "j."

Q. Yes. A. And I find out that— I have looked it up since, and a great many Germans do, because the "j" in German is yot, y-o-t, and I think that's where they make the mistake of just using the "j" on account of the "y" being the first letter of the pronunciation of the name yot.

Q. You find that both in the ransom notes and in the conceded writings and the genuine writings, don't you? A. Yes.

Q. You find it all the way through? A. Yes, and I thought somebody took their words that way in Germany.

Q. That is another similarity? A. I wouldn't call it a similarity.

Q. What would you call it? A. That is just an expression of mine, that I thought might occur. I don't say it did.

Q. Do you think these ransom notes are an imitated writing? A. Imitated?

Q. They are natural writing? A. I don't know, I think it is another hand.

Q. It is another hand but a natural hand? A. No it is not a natural hand.

Q. What is it? A. There is all direction of lines in this writing.

Q. Yes. A. Some sheets are different in general appearance from the others.

Q. Now, in your examination of the ransom notes and the conceded writings and the request writings of Hauptmann, did you examine the writings of any other person in order to formulate your opinion? A. I think I examined two or three, but we didn't have sufficient—

Q. Who are they? A. —writings.

Q. Who were they? A. Fisch.

Q. Who else? A. Uhlig.

Q. Who? A. Uhlig, we had some writings of his.

Q. Do you know how to spell that? A. U-h-l-i-g; we didn't have anything of importance. We were just looking for a clew of some kind.

Q. You had no writings of Fisch of any importance and no writings of Uhlig of any importance? A. No.

Q. And they of course in no way entered into the formulation of your opinion as to the identity of the writer? A. No.

Q. Did you examine the ransom notes for undotted i's? A. Yes.

Q. How many did you find? A. I found the small "i" dotted 12 times in the automobile application.

Q. In the total of the ransom notes, the conceded and genuine writings, how many undotted i's did you find? A. How many undotted?

Q. Yes. A. Well, I found 17 dotted but I don't know how many i's there were in the ransom notes.

Q. Did you think that was important to find out? A. I found 17.

Q. 17 undotted i's, in the ransom notes? A. Oh, no, not in the ransom notes.

Q. In what? A. In the request— in the applications of him, automobile applications.

Q. Well, in your examination of the ransom notes, how many did you find? A. I didn't find many. I heard Mr. Osborn say there were three or four.

Q. You didn't look for them, did you? A. I did, but I couldn't see any.

Q. You couldn't see any undotted "i's" in the ransom notes? A. No, they may have been just what Mr. Osborn said.

Q. Did you see any uncrossed t's in the ransom notes? A. I found 24 crossed t's in his applications and 35 in his request writings at the police station.

Q. Did you make an investigation to determine how many o's were open at the top? A. Well, he is an open "o" writer. I found— I guess one or two, they were all eventually open o's.

Q. A few moments ago upon examination by Mr. Reilly, you were asked and answered the following questions:

"Q. Now, will you please look at photographic

copy of nursery note, the word 'goot,' g-o-o-t or 'good,' g-o-o-d, is that distinctive in its character? A. It is not.

"Q. So that it is rather distinctive, isn't it? A. It is.

"Q. Would it impress an expert, or should it? A. It certainly would.

"Q. It stands out, does it not, as plainly as 'public' 'anything?' A. It does."

Is that testimony correct? A. Yes.

Q. You don't desire to change that in any particular? A. Well, no, it is something that attracts your attention. That is what I meant.

Q. Well, let me read it to you again: "Question: Now will you please look at photographic copy of nursery note the word 'goot' or 'good' is that distinctive in its character? Answer: It is not." A. To a certain extent, to itself— I mean comparison.

Q. "It stands out, does it not, as plainly as 'public' or 'anything?' A. It does. Question: So it is rather distinctive, isn't it? Answer: It is." A. It was—

Q. Which answer do you want to stand now? A. It stands out with the others.

Q. Do you want it to stand "It was" or "It is?" A. Either way. I meant— You know what I mean.

Mr. Lanigan: That is all.

Re-Direct Examination by Mr. Reilly:

Q. Are there any things in the writing that you discovered that you wish to speak about before you leave the stand? A. Just about the line quality in both writings.

Q. Yes. Well, just what do you mean by line quality? A. In the ransom letters, the wide writing line—

Q. Point it out, please, to the jury, so that they

will get the distinction between the wide line— I will hold one over here for you. Come down here, please, so the reporter will get it as you point to it. A (Witness stepped before the jury.) It is the wide writing line, the same width all through; and this undue impulse or pen pressure at places where it shouldn't be. We find it here, we find it here on an upstroke, we find it here (indicating;) we find it starting here on an upstroke. That's unnatural for shading to be put in. And I find that all throughout the writings. And in the Hauptmann writing you will find all the shading is graduated, uniform, with its downstrokes, with its clean pen movements, no roughness; we don't have these rough lines. That's all.

Mr. Reilly: That is all.

If your Honor please, the Attorney General and myself would like to consult with you at side bar, if we may. And may we have a five minute adjournment while we are doing that?

The Court: Five minute recess.

(At 3:15 o'clock p. m. a short recess was taken.)

(3:40 P. M.)

(After a short recess the jury was polled and all jurors answered present.)

Mr. Reilly: May I address your Honor?

I just find myself, if the Court please, in the usual position on Friday afternoon of asking for

an adjournment until Monday morning I ask it for the following reasons:

When the State's case closed, as your Honor knows most of our witnesses come from New York State, we provided for as many witnesses as we thought would carry this case over until noon on Saturday; but the quickness with which the General here conducted his cross-examination and disposed of the witnesses has brought us down to two witnesses, which we intend to use this afternoon. I am not going to say anything about the difficulty of bringing witnesses here, except most of them are people that work by the day, and we can't bring them down and keep them here because we haven't any funds; we have to bring them down every day, have them testify, and return them home.

Now, there are on our list, I should say, in the different angles, maybe 30 to 36 witnesses; but the General and I, during the cross-examination of Mr. Trendley, talked about not the elimination of the witnesses, but trying to keep and confine the evidence to the salient and important points for which they are called, and the cross-examination naturally would fit that way. I believe and I know that it is absolutely necessary—because otherwise I would simply have to tell your Honor we have no witnesses, and I don't know what we can do, we couldn't stop the trial because the rights of this man charged with murder in the first degree are paramount—I believe that I can bring here next week each day at least ten or twelve witnesses, and I would be even willing to sit, with your Honor's permission and consent, in the afternoon until the last witness for that day had been

called, so we could send them home and take a fresh group the next morning.

If we proceed that way and we are able to get our witnesses I believe that we would be in a position of resting by Thursday of next week and then, of course, the rebuttal would be up to the Attorney General.

I make that application in all seriousness, appreciating the fact of what we are doing here in this matter. I ask most earnestly for your indulgence and the indulgence of the jury, in asking for this adjournment, which is legitimate. It does not mean that I or any of the defense staff are going to even have a rest. It means we will have to work, go to New York, and serve subpoenas there. While there is a law that says you can take them before a Supreme Court, that is too long to get them here. It is personal suasion and inducement that will get them here. We have to provide motor cars to get them here, feed them, and then return them. It has been very difficult and I know your Honor who has been very indulgent heretofore will continue to hold the scales of justice even between both of us.

Mr. Wilentz: Of course if your Honor please, I take it that it is the duty of the State and the prosecution to give every consideration to the rights of this defendant. I want counsel to know that and I very respectfully submit to the Court that those are our feelings in the matter. What has concerned both Mr. Reilly and myself has not been any difficulty between us about our week-end adjournment. We have been concerned about the very great difficulty and hardship that it would impose and probably does impose upon this jury locked

up all these weeks. I know that if I were to be locked up for all these weeks, if your Honor please—well, I don't think it would be possible with a fellow as temperamentally inclined as I am. I know it is a great hardship upon them.

First, because of the rights of the defendant, we do not object, but then because of the position that I feel the jury is in, I cannot consent. So that is our position, if your Honor please. At the same time I feel that when Mr. Reilly says he can't get his witnesses here for tomorrow, I don't know what other course there is to pursue.

The Court: Well, of course, the intention of all of us was to expedite this trial as much as was fair and possible and to that end to work on Saturday. However, it has so happened and apparently again happens that nothing is to be gained by coming here tomorrow. I have heard Mr. Reilly say both in open court and in chambers that it is impossible for him to get his witnesses here for tomorrow. There seems, therefore, no utility, unfortunate as it is, in undertaking to have a session tomorrow.

I hope the jury will be reconciled to this: It has been my experience that sometimes by the accomodation of counsel and releasing of counsel from continuous daily performance in court, trials are sometimes shortened. I think that that probably will be the result of taking an adjournment over until Monday morning. So when we adjourn tonight, the adjournment will be until Monday morning at ten o'clock.

Mr. Wilentz: May I say, if your Honor please, that counsel have also discussed the question of the length of time of this trial, particu-

larly so far as the future is concerned, and I think maybe it would be only just to the jury particularly, that they know our feelings about it.

Mr. Reilly and I feel that we are optimistic about finishing this case next week.

Mr. Reilly: Yes, we are optimistic, yes.

Mr. Sommer, take the stand.

PETER H. SOMMER sworn as a witness in behalf of the defendant:

Direct Examination by Mr. Reilly:

Q. Mr. Sommer, what is your business? A. Why, my profession is a fingerprint expert.

Q. Connected with whom? A. Why, I was connected with the City in that capacity, but not now.

Q. What do you do now for a living? A. I am with the Building Management & Supply Division of the Department of Public Welfare, City of New York.

Q. Do you remember March 1st, 1932? A. Yes, I do.

Q. And in the evening of March 1st, 1932, where were you, the early evening? A. In the early evening, I was in Fairview, New Jersey.

Q. Were you visiting there? A. Why, no, I was over there giving a fingerprinting instruction.

Q. To whom? A. To a police officer.

Q. What was his name, if you remember? A. William Ackerman.

Q. And after you finished your fingerprint instruction— did you have your car with you? A. No, I came down on a trolley car.

Q. And how did you come on the trolley car and where did you come to on the trolley car? A. I came down to the 42nd Street ferry, Weehawken.

Q. And about what time did you arrive at the 42nd Street ferry, March the 1st, 1932? A. It was between 12 and 12:20.

Q. Did you board the ferry boat? A. I did.

Q. Did you notice any people that were on the trolley car that were also on the ferry boat? A. I did.

Q. Describe the people that you saw on the trolley car who were afterwards on the ferry boat with you. A. They was on the ferry boat, on the car coming down, then they was on the ferry boat.

Q. Describe them. A. There was two men.

Q. Describe them. A. One was, I would say, was about five foot nine; the other was about five foot four. One was short. They set directly in front of me smoking cigarettes, so being as they were smoking I lit a cigarette.

Q. You didn't talk to them? A. No, sir.

Q. Did you get a good look at them? A. A fairly good look at them; yes, sir.

Q. Do you think you would be able to identify the photograph of one of them? A. I think so.

Q. I show you a picture and ask you whether or not that resembles the man, or is that the man, one of the man that you saw on the trolley car (showing Exhibit D-5 to the witness.) A. No, but I saw this man on the ferryboat.

Q. How long after you left the trolley car did you board the ferryboat? A. Oh, within a few minutes.

Q. And you say you saw Defendant's Exhibit D-5 for Identification on the ferryboat? A. I did.

Q. And how near were you to him on the ferryboat? A. Why, I sat across the way from him.

Q. How long were you riding on the ferryboat

with this man under observation? A. Why, from Jersey side to New York side, practically.

Q. Eight or ten minutes? A. About that.

Q. You had never seen him before? A. No, sir.

Q. And the lights in the ferryboat were well lighted? A. Yes, sir.

Q. Were you alone that night? A. Yes, sir.

Q. Now, when the ferryboat landed in New York what did the man opposite you, whose picture you have identified here, do: what did he do? A. Why, they went out of the boat and I proceeded to the Crosstown car.

Q. The 42nd Street Crosstown car? A. Crosstown car.

Q. Is that correct? A. Correct, yes.

Q. Which runs to the Weehawken Ferry? A. Yes.

Q. About what time was that? A. Why, that must have been about twenty minutes to one, I suppose, around that time, between half past twelve and twenty minutes of one.

Q. Now, what did you see the man whose picture you identified here do? A. Why, him and another man assisted a lady on the car, with a baby; the woman had a baby.

Q. And did you get on that trolley car? A. I did.

Q. Where did you ride to? A. To Seventh Avenue subway, for the Brooklyn train.

Q. And did you get a good look at the woman on the trolley car holding the baby? A. Why, what drew my attention to the woman, she was very nervous.

Q. Did you get a good look at her? A. I did.

Q. I show you Defendant's Exhibit 7 for identification and ask you if you recognize the woman that was seated in the trolley car holding the baby? A. I would say that resembles the woman very strongly.

Q. Now, the woman in the trolley car holding the baby, how was she dressed? A. She had a brown coat on with brown fur cuffs, and a brown collar. The coat was open. She had sort of a low cut waist, and she had a sort of a pearl necklace around her.

Q. Now describe her actions in the trolley car with the baby? A. Why, she was holding the baby, and from the time she got on the trolley car she appeared very nervous, she had the baby this way (illustrating;) she always had one foot— (witness indicates by holding his arms out,) and as the car slowed up or stopped, she just appeared as though she was ready to jump out.

Q. How was she holding the baby, what was the baby wrapped in? A. The baby was wrapped in a blanket.

Q. Did you see any part of the baby's face? A. I did.

Q. Describe the baby to the jury. A. This baby she had wrapped in a blanket and she would lift the baby up, and as she lifted the baby up, this blanket slipped and I noticed the baby was dressed in a one-piece nighty.

Q. And was the baby a brunette or a blond? A. The baby was a blond.

Q. About how old? A. I would say about two years old.

Q. And that was on the night of March 1st, 1932? A. Yes, sir.

Q. After the man whose picture you identified left the boat coming from Jersey, is that correct? A. Yes, sir.

Q. Now when you went home that night did you report this incident to the police? A. I didn't report it that night, but I mentioned it to my folks and some friends about this woman.

Mr. Wilentz: I move that all except that part about the police be stricken.

Mr. Reilly: All right. I will reframe the question.

Q. When did you first learn of the kidnaping of the Lindbergh baby? A. Ten forty-five the next morning, I heard it come over the radio.

Q. After hearing of the kidnaping of the Lindbergh baby did you report to the police the incident that you had seen the night before? A. I did. I went up—

Q. When? A. I went up the next day.

Q. March 2nd? A. March 2nd.

Q. To whom did you report it? A. I reported it to Detective Mulaney of the 81st Precinct at Ralph and Quincy Street, Brooklyn, New York.

Q. Did you report it to anybody else? A. I did on the Friday, I wrote a letter stating my experience on the ferry.

Mr. Wilentz: Just a minute.

By Mr. Reilly:

Q. Who did you write it to? A. To the State Police, Trenton, New Jersey.

Q. Did you ever get an answer? A. I did not.

Q. Nobody came to investigate? A. No, sir.

Q. How did you come to be a witness in this case? A. I wrote you a letter.

Q. How long ago? A. About two weeks ago.

Q. Before that you didn't even know me? A. I am not interested in you.

Q. You are here in the interests of justice to tell this story? A. I am.

Mr. Reilly: You may inquire.

Cross-Examination by Mr. Wilentz:

Q. Did you write to Mr. Fawcett? A. No, sir.

Q. You were just as keenly interested in justice in September, 1934, as you are today? A. Yes, sir.

Mr. Wilentz: May I have the other picture.

Q. In September, 1934, you saw the pictures and the stories about the gentleman who was arrested in connection with the Lindbergh case, did you not? A. I did.

Q. And you did not attempt to help at that time, did you? A. No, I had a particular reason.

Q. Well, you didn't? A. No, I didn't.

Q. And you didn't do it in October when the trial in the City of New York was on? A. No.

Q. And you didn't do it in November after the gentleman got here? A. No.

Q. And you didn't do it in December, did you? A. No.

Q. And you didn't do it until two weeks ago? A. Right.

Q. Did you communicate again with the police after you spoke to this detective in New York, or was that the only incident? A. That was the only incident.

Q. And that was on March the 2nd, or— A. Yes, sir.

Q. Did anybody from the New York police come to see you? A. No, sir. When I reported there they told me they had hundreds of clues.

Q. That is right. Didn't they tell you they had hundreds of people that came in and said they saw men with babies all over the country that night? A. Yes.

Q. They told you that, didn't they? A. Yes.

Q. They told you that there were hundreds of people with the same story about babies in different parts of the country the same night, isn't that so? A. Well, I don't say they said "hundreds."

Q. How many? A. They said—Why, they didn't specify any number.

Q. Didn't you specify a minute ago they said they had hundreds of clues of that kind? A. I didn't mention any number. I said they had several clues.

Q. Well, they told you they had scores of clues of that kind, didn't they? A. Well, I don't know whether they used the word "score" or not.

Q. And they told you, didn't they, that while they believed that you saw somebody on the trolley car, they didn't believe that it was the Lindbergh child, isn't that right? A. Well, they didn't take much interest in any story I claimed.

Q. No. They didn't put much stock in the story; that is what you mean? A. Why, I don't know whether there put much stock in it or not.

Q. Well, they never came back again, did they? A. Why, that I can't say, because I moved after that.

Q. Now the man that you saw in the ferryboat, you didn't see him on the trolley car? A. No, he wasn't on the trolley car.

Q. The man you saw in the ferryboat you have never seen since? A. No, sir.

Q. You had never seen him before? A. Not to my recollection.

Q. He was the tall man or the short man? A. The short man I saw.

Q. Was he the same short man you saw on the trolley car? A. No, sir.

Q. What about the short man you saw on the trolley car? A. Why, I didn't see him when we arrived in New York.

Q. So that he disappeared once he got off the trolley car, so far as you know? A. I don't know what became of him.

Q. What happened to the tall man, so far as you know? A. Why, he assisted this woman on the car.

Q. So that the short man didn't assist her, did he? A. This picture that I identified, yes.

Q. Well the short man you didn't see on the trolley car? A. The one, the short—

Q. Just a minute now. A. Please don't puzzle me up.

Q. I am not going to puzzle you up. A. And I am not going to be puzzled. I am stating that the short man that came—

Q. Just one minute now. You are going to answer the questions. A. All right, I am going to answer them.

Q. Yes, sir. A. But I am not going to be puzzled by anybody.

Q. That's all right. And you are not going to lecture anybody either.

Q. Now, just answer the question. The short man that you saw on the ferry boat, you didn't see on the trolley car, is that correct? A. Positive, that is correct.

Q. Now, the tall man that you say helped the woman on to the, into the car— A. Yes.

Q. —did you see him on the trolley car? A. He was on the trolley car.

Q. That is what I want to know. So you saw a tall man and a short man on the trolley— A. Trolley car.

Q. That was the last man you saw, the short man? A. That was the last I saw of the short man.

Q. The tall man you did, however, see later? A. I did, yes.

Q. Did you see him on the boat? A. I saw him on the boat.

Q. Not with the short man? A. Not with that short man.

Q. And then you saw the tall man again, did you? A. Yes.

Q. You saw him assisting a woman with a baby? A. Him and the short man whose picture I identified there.

Q. Yes. A. They assisted this woman on the trolley car.

Q. All right. So that you saw the short man that you saw with him on the trolley, you never saw again. A. No.

Q. What about the height of the man you saw on the trolley? A. I would say he was about 5 foot 4, 5 foot 5, something like that.

Q. What about the height of the man you saw on the boat? A. I would say he was about the similar height.

Q. Look alike? A. No, quite a difference.

Q. What was the difference? A. Why, the one was rather stout and stocky while the other was rather thin.

Q. When you went to see Mr. Reilly, you wrote to Mr. Reilly, didn't you? A. I did; yes, sir.

Q. Did you send him a picture? A. No, I did not.

Q. Will you see if you can see the resemblance of anybody you saw that night in that picture (handing photograph to witness). A. Why, this looks something like it but it is blurred: I won't say one way or the other.

Q. You won't say that it was or was not? A. I won't say it was or wasn't. That is a blurred picture.

Q. Whether it is blurred or not, you won't say it was or wasn't? A. I won't pass my opinion.

Q. That is all we wanted, your opinion. We are referring to D-33 for Identification.

Mr. Reilly: Which picture is it?

Mr. Wilentz: Just a minute, Mr. Reilly, please.

Q. You won't say you recognize anybody on that picture, is that what you mean? A. I won't pass my opinion on it.

Q. We want your opinion. Your opinion is you won't say yes or no? A. I won't say yes or no on that picture; it is a blurred picture.

Q. As to anybody in that picture? A. As to anybody in that picture. It is a blurred picture.

Q. You do not, the picture is in such shape that you can't tell by looking at that picture whether you had ever seen any of those people before? A. Not by that picture, no, sir.

Mr. Wilentz: That is all right. The picture referred to is D-33 for Identification.

Q. Now, how about this one: is this too blurred? A. No, that is a pretty good picture.

Q. Did you see that person that night? A. No, I wouldn't say I saw him.

Q. Will you say positively you didn't? A. Well, I don't know.

Q. Let me hold it, please. A. It is a different view.

Q. I know it is a different view.

Mr. Reilly: I submit he should be able to look at the picture in his own hand.

Q. Can you tell from that view whether or not that was the man you saw that night? A. If I studied the picture I might be able to tell you.

Q. All right. (Hands picture to witness.) A. I wouldn't say I positively would on that either.

Q. You are not sure whether it was or was not this man? A. No. Because the man I saw, I saw a full face and that is a side view.

Q. You can't tell from that picture whether that is the man or not? A. No, I cannot.

Mr. Wilentz: Please mark that for identification.

(Photograph referred to was marked State Exhibit S-287 for Identification.)

Q. There is no question in your mind that the small fellow you saw on the trolley car you did not see again? A. Yes, sir.

Q. There is no question that you didn't see him on the boat? A. No, sir.

Q. No, sir; that is true? A. I didn't see him. I didn't see the fellow on the trolley car on the boat.

Q. The small man you saw on the trolley car you did not see on the boat and you did not see him again? A. No.

Q. You didn't see the woman on the trolley car, did you? A. The woman I did not see on the Jersey trolley car.

Q. And you didn't see the baby on the trolley car, did you? A. Not on the Jersey trolley car.

Q. But you saw a tall man and a short man on the trolley car and then later you saw the tall man on the boat? A. Yes, sir.

Q. And that tall man together with a short man helped a child on? A. Yes, sir.

Q. With the woman into a car? A. Yes, sir.

Q. Now let me read you your answer to Mr. Reilly's question about the tall and the short man: "Did you notice any people that were on the trolley

car that were also on the ferry boat?" "I did." "Describe the people that you saw on the trolley car who were afterwards on the ferry boat with you." "They was on the ferry boat, on the car coming down, then they was on the ferry boat." "Describe them." "There was two men." "Describe them." "One was, I would say about five foot nine; the other was about five foot four. One was short. They set directly in front of me smoking cigarettes, so being as they were smoking I lit a cigarette." A. Right.

Q. When were you doing the smoking, on the trolley car? A. On the trolley car.

Q. Yes. Now, Mr. Reilly asked you, "Did you notice any people that were on the trolley car that were also on the ferryboat," and you says, "I did." A. Yes.

Q. The people that were on the trolley car, that were also on the ferry boat, you said, "I did?" A. I said the tall man.

Q. Then he says to you, or rather he asked you: "Describe the people that you saw on the trolley car who were afterwards on the ferryboat?" and you described the same two men; isn't that the fact? "They were on the ferryboat, on the car coming down, then they was on the ferryboat. Describe them. They were the two men. Describe them. One was, I would say about five foot nine, the other was about five foot four, one was short. They sat directly in front of me smoking cigarettes, so being as they were smoking cigarettes, I lit a cigarette." What have you to say about that explanation?

Mr. Reilly: I object to that. There is no contradiction. The witness has testified he came down on the Jersey side on a trolley car. He crossed over on a ferryboat and got on another trolley car in New York.

The Court: It seems to me proper cross-examination. I will allow the question.

Mr. Reilly: Exception.

The Court: Take your exception.

(Exception allowed, and the same is signed and sealed accordingly.)

(s. s) THOMAS W. TRENCHARD,
Judge.

By Mr. Wilentz:

Q. Have you an explanation for your testimony just a few minutes ago in answer to Mr. Reilly? A. Yes, I have.

Q. Please give it to us. A. I said the one short man, I came down on the trolley car, I did not see on the boat, but he connected up with another short man that was on the boat.

Q. That is right. A. That is the—

Q. That is your testimony in answer to my questions. A. That is the man I identified the picture of.

Q. That is in answer to my questions, but what about the answer to Mr. Reilly's:

"Q. Did you board the ferry boat? A. I did.

"Q. Did you notice any people that were on the trolley car that were also on the ferry boat? A. I did.

"Q. Describe the people that you saw on the trolley car who were afterwards on the ferry boat with you. A. They was on the ferry boat, on the car coming down, then they was on the ferryboat.

"Q. Describe them. A. There was two men.

"Q. Describe them. A. One was, I would say, was about five foot nine; the other was about five foot four. One was short. They set directly in

front of me smoking cigarettes, so being as they were smoking I lit a cigarette."

They were on the ferryboat. They were on the car. Describe them. Two men, one man five foot nine, one man five four— that is your testimony. They had been on the car smoking cigarettes, so you lit one. You are talking about the two men who were on the ferryboat and who had been on the trolley car. That was your answer to Mr. Reilly. Can you explain that? Was it a mistake? A. Probably it was. You got me mixed up.

Q. Sir? A. You got me mixed up.

Q. Why have I got you mixed up? A. I tried to explain to you that I didn't recognize the one man on the boat afterwards, and you start to mix the two men up, the man that was— the short man that was on the car and the short man that was on the boat.

Q. Well, I didn't— A. And I tried to explain, but you wouldn't give me a chance to explain.

Q. Well, then, suppose you explain, not when I asked you questions, just merely explain your answers to Mr. Reilly's questions. Of course, he didn't mix you up, did he? A. No, I am not here for Mr. Reilly nor for you.

Q. Never mind that. You weren't mixed up when you answered Mr. Reilly's questions, were you? Were you mixed up when you were answering— A. Why, because he didn't blare at me.

Q. No. Will you please tell me: Were you mixed up when you were answering Mr. Reilly? You were not, were you? A. I didn't make any answer yes or no.

Q. You won't make any answer? A. No, I will not.

Q. You mean that maybe you were mixed up when you answered Mr. Reilly? A. No, I didn't say that.

Q. Will you say you weren't mixed up when you

answered Mr. Reilly? A. I am not answering that question.

Q. You are not answering? A. (Shakes head.)

Q. Well, will you please answer the question whether or not— were you mistaken when you answered Mr. Reilly? A. I won't say I was mistaken, no sir.

Q. You won't say you were mistaken, and you won't say you weren't either, will you? A. (No answer.)

Q. You won't say you were and you won't say you weren't, will you? A. If you repeat the question I may answer it and you might clear the situation up.

Q. All right, sir. You have no objection to the Court conducting this trial, have you, while you are on the stand? A. No.

Q. I see. All right. Now will you tell us, please, whether or not when Mr. Reilly asked you the question: "Did you board a ferry boat?" And you answered: "I did," you were mixed up then? A. No.

Q. Then when he asked you this question and you gave this answer, were you mixed up: "Did you notice any people that were on the trolley car that were also on the ferryboat?" and you answered: "I did?" A. I did. That is proper.

Q. You weren't mixed up then? A. No.

Q. Then in answer to this question you gave the following answer— were you mixed up then: "Describe the people that you saw on the trolley car who were afterwards on the ferryboat with you? A. They were on the ferryboat, on the car coming down, then they were on the ferryboat." You weren't mixed up then, were you? A. No.

Q. Then again the question: "Describe them." And the answer: "There were two men." Is that correct? A. Yes, sir, there were two men.

Q. And you weren't mixed up, is that right? A. (No answer.)

Q. Then the next question— A. Just a minute, please.

Q. Yes, sir. A. When we got on the boat—

Q. No. Please tell me whether you were mixed up when you gave that answer. That's all I want to know. A. I am trying to explain it to you.

Q. No. I would like to have an answer, if you have no objection I would like to have you answer that Yes or No. A. I can't answer that unless I make an explanation.

Q. Well, you didn't give an explanation to Mr. Reilly and I want to know if what you told then was correct. Then you can give the explanation after we are through, as I tried to let you do before. A. The statement I made to Mr. Reilly is correct.

Q. No, please; you please answer the question, unless the Court says it is improper. A. Repeat the question.

Q. When Mr. Reilly asked you again, "Describe them" and you answered "There was two men," were you mixed up when you gave that answer? A. No.

Q. Then the next question and answer: "Describe them." Your answer: "One was, I would say, was about five foot nine; the other was about five foot four. One was short. They set directly in front of me smoking cigarettes, so being as they were smoking I lit a cigarette." You weren't mixed up then, were you? A. No.

Q. Now, did you see the two men who you first saw on the trolley car, did you see them later on the boat? A. I— when I got on the boat—

Q. Will you please answer the question. A. Yes, I am trying to answer it.

Q. Yes, sir. Did you or didn't you? Either you did or you didn't. Did you see the two men who you first saw on the trolley car and who were sitting

in front of you smoking: did you see the two men, the two of them, on that boat? A. Yes, I did.

Q. Now, you have answered us a few minutes ago that you didn't see the short man once he was on that trolley car. Now, am I mixing you up again? A. Why, positively, I want it explained and you told me to answer the question. I am trying to tell you when we got to the ferry the tall man got on the boat and I didn't see, I couldn't swear that the other short man got on the boat, but when the tall man got on the boat he connected up with the second short man whose picture I identified.

Q. Yes. All right, sir. Now, you are clear now and you have given an explanation? A. Yes.

Q. Did you see the short man who you saw on the trolley car any time at all on the boat? A. I wouldn't say I did.

Q. You just a few minutes ago said you did. A. I wouldn't swear to it.

Q. Well, that is what you are here for. A. That he was on the boat. I wouldn't swear that he was on the boat. I am trying to tell you the second short man was on the boat, not on the trolley.

Q. But I wanted to get through with the first short man first. A. I don't know what became of the first short man.

Q. You never saw him again after he left the trolley: isn't that right? A. That is right; when we got down to the ferry house—

Q. You never saw him on the ferryboat? A. No, I can't say I saw him on the ferryboat.

Q. The first short man you saw on that trolley car you never again saw him in your life, did you? A. Not that I know of.

Q. You never saw him in the boat, in any boat? A. No, not that I know of.

Q. And you didn't see him in the ferryboat that night? A. Not that I know of.

Q. But you told Mr. Reilly on direct examination you did, and you weren't mixed up then? A. I am speaking of the short man whose picture I identified.

Q. That is the man you saw in the trolley car? A. No, sir, I didn't see him in the trolley car.

Q. I am speaking of the man you saw in the trolley car. You told Mr. Reilly that the two men you saw on the trolley car you also saw on the boat? A. On the boat.

Q. Is that right? A. I don't know whether the short man took the boat, the tall man took the boat and he connected up with this second short man whose photograph I identified.

Q. What I want to do is help unmix you, since you say I mixed you up. A. Yes.

Q. When you told Mr. Reilly in answer to his question or questions that the two men you saw on the trolley car you also saw on the boat, if you told him that, you were mistaken, is that what you mean? A I don't think I was mistaken.

Q. You won't say you were mistaken. A. No, they went through the ferry house.

Q. Is it true that the two men who were on the trolley car were on the ferry boat, did you see them? A. I saw one of them, the tall fellow.

Q. Now, this woman that you saw, will you describe her? A. Yes. I would say she was about five foot six or seven, medium built.

Q. What do you mean by that? A. Well, medium built, dark hair, quite nice looking woman, wearing a brown coat.

Q. What time of the morning would you say that was? A. Well, I would say that was between half past twelve and twenty minutes to one about.

Q. Half past twelve or twenty minutes to one of the morning of March 2nd? A. Yes.

Q. What year? A. 1932.

Q. And when you saw her, where did you first see her? A. They were in the trolley car.

Q. The woman in the trolley car? A. The woman in the trolley car.

Q. You just testified a few moments ago you didn't see her until she got on the boat or am I mistaken about it? A. I didn't say anything about her getting on the boat, I said about getting on the trolley car, the men putting her on the trolley car.

Q. You don't mean on the Weehawken side, do you? A. No, I mean on the 42nd Street crosstown.

Q. You mean on the trolley car in New York? A. The trolley car in New York City, the 42nd Street crosstown trolley car.

Q. Did the two men get on with her? A. No, they did not.

Q. Just the woman alone? A. That is all.

Q. And the men went on their way. Did they go in an automobile or what did they do? A. They went over to an automobile, yes.

Q. They didn't go across the ferry in an automobile, did they? A. No, sir.

Q. Sir? A. I didn't see any automobile that belonged to them. I don't know how, whether they had an automobile or not, but after they left the woman and put the woman on the car they walked over to an automobile.

Q Was it a taxi? A. No, it was not a taxi.

Q. A private automobile, so far as you know? A. A private automobile, a dark color.

Q. How far away from the trolley car? A. Well, I would say about probably 20, 25 feet away.

Q. And did you get on that trolley car? A. I did, yes, sir.

Q. Did you ride along with this woman? A. I did.

Q. And with the child? A. Yes, sir.

Q. Was the face of the child revealed? A. Why, yes; the blanket slipped. She went to raise the child

up and, as she did, the blanket slipped and that's when I noticed the child.

Q. When was the first time you saw this woman? A. On the trolley car.

Q. On the trolley car? A. Yes.

Q. She was seated there when you saw her? A. Yes, sir. I got in right after.

Q. You got in right after? A. Yes, sir.

Q. You didn't see her on the ferryboat? A. No, sir.

Q. And you saw these men walk away? A. Yes, sir.

Q. Did the trolley car wait until they walked over to an automobile? A. No, the trolley didn't wait. As soon as the passengers got on, why, there was a couple more besides myself, the trolley started off.

Q. And during that operation they walked to an automobile? A. Yes.

Q. Sir? A. Yes, they walked over, as soon as they got the woman on the car they walked over to the automobile.

Q. Yes. And did you see them get in the automobile? A. That I couldn't say. I went on into the trolley car. I wasn't concerned where they went.

Q. Did you see them get into an automobile? A. I wouldn't say I did. They walked over to the automobile.

Q. What do you mean? A. I got into the car.

Q. What do you mean, to the automobile? A. The automobile was standing over in that direction and, after they put the woman on the car, assisted her on to the platform, they walked over to the automobile, and I went into the car, paid my fare and walked into the car.

Q. You didn't see them get into the car? A. No, I did not.

Q. Did you see a driver in the car? A. No, I did not.

Q. It was an empty car before they got to it?

A. So far as I know; I didn't inspect the car.

Q. Well, you looked over sufficiently to see a car, didn't you? A. Yes, I did, because—

Q. Did you notice whether the car was occupied by anybody? A. No, I did not.

Q. You did not? A. (Shakes head.)

Q. Now, when these men were on the boat, they were in the same room as you, were they? A. Yes, sir.

Q. The two of them? A. Yes, sir.

Q. Sir? A. Yes, sir.

Q. You sat opposite them? A. I did.

Q. You walked out together? A. Yes, sir.

Q. Where did they meet the woman? A. Why, they met the woman in the ferry house, wherever she came from, I don't know.

Q. Yes. A. I wasn't concerned; I started—

Q. They met the woman in New York? A. Probably; I couldn't say.

Q. Well, you were then in New York when you were looking at them, weren't you? A. Yes, I was in New York when I looked at them.

Q. And they were with you all the way across? A. They could have possibly— she could have possibly been in the car; I don't know.

Q. But these men were with you on this boat? A. Yes.

Q. Within your sight? A. Yes.

Q. And when the three of you walked off the ferryboat, there in the ferry house on the New York side, these two men met a woman? A. Not in the ferry house; outside the ferry house.

Q. Outside the ferry house? A. On the street, they joined up with her, wherever she came from; and they assisted her on to the trolley car.

Q. But where you saw them is what I am interested in? A. I saw them—

Q. —meet her? A. —on the trolley car, wherever they met her or connected with her, I don't know, I wasn't interested at the time.

Q. The first time you saw them was when they were putting her on the trolley car? A. On the trolley car. I was right behind.

Q. You didn't see them meet the woman then in the ferry house? A. No, sir.

Q. Didn't you so testify about one and a half minutes ago? A. That I saw the woman in the ferry house?

Q. That you saw the woman in the ferry house? A. I said I didn't know where they met the woman.

Q. Didn't you so testify just a few minutes ago— A. Not that I know of. I said I met the woman on the street, if I remember right.

Q. Well, it may be that my recollection is bad, that is why I am asking you again. Didn't you testify a few moments ago when I asked you first whether or not, where these men met this woman, and didn't you say in the ferry house, and didn't I then say to you: On the New York side? And I think you said yes, and then later you said outside the ferry house, just a little off the ferry house. A. Probably I misunderstood your question when I said the ferry house. It was at the ferry house.

Q. Well, what has the ferry got to do with it? Will you say now that you did not see these men, these two men meet this woman? A. Will I say I did not see her?

Q. When they first met. A. I don't know where they met her. I am saying they connected with her at the ferry house, whether they met her inside or that before, I don't know.

Q. At the ferry house? A. I saw them putting this woman—

Q. Just one minute. I would like to have the

last answer repeated so that I don't misunderstand you. Will you let us have the last answer?

The Reporter: "A. I don't know where they met her. I am saying they connected with her at the ferry house, whether they met her"—

Mr. Wilentz: Just a moment. That is enough.

Q. I just want to keep at that ferry house a minute. They met her at the ferry house? A. Yes, sir.

Q. Where is the ferry house? A. Why, West 42nd Street.

Q. Right as you get off the boat is the ferry house, isn't it? A. Certainly, there is a ferry there. I don't know where it is, just to the left or right, but it is there.

Q. Did they meet her at the ferry house? A. I am—

Q. Did they meet her at the ferry house? A. I am telling you they connected up with the woman.

Q. Please tell me whether they met her at the ferry house? A. At the ferry house, at the terminal where the car comes in.

Q. So that they didn't meet her in the ferry house? A. As they put her on the car.

Q. Never mind and please let's stick with the ferry house, so we can get away from there. A. Well, naturally—

Q. Not naturally. Did they meet her at the ferry house? A. I am saying that they met her—

Q. Please, will you please answer the question? A. Well, all right, I want to explain my answer.

Mr. Wilentz: Am I entitled to an answer, if your Honor please?

The Court: Yes. Did these two men meet this woman in the ferry house?

The Witness: Well, your Honor, I think that he was trying to say that that was inside.

The Court: Not what he is trying to say,— I am asking you the plain question: Did these two men meet this woman in the ferry house?

The Witness: Just outside of the ferry house. They came along and assisted her to the car.

The Court: Just outside of the ferry house they came along and assisted her to the car.

Q. How far away? How much of a walk was it from the ferry house to the car? A. That I have no idea.

Q. Well, you were there and you walked it,— will you give us your best judgment? A. Well, it is only a short distance.

Q. Well, give us your best judgment. A. Well, I wouldn't want to commit myself on that. I am no surveyor.

Q. Was it as far as from where you are to the back of this court room? A. No, I wouldn't say— probably half that distance.

Q. Half the distance? A. Probably or about.

Q. So that when you said the first time you saw these men meet this woman they were assisting her on the trolley car you were mistaken? A. Well, you would say assisting on a trolley car when they met up with her and they put her on the trolley car.

Q. Is that what you meant when you said they assisted her on the trolley car when you first saw them? You mean they walked to the ferry house,

and to the trolley car and assisted her? A. From the outside of the ferry house they connected up with her and went over to the trolley car.

Q. When you said that some time ago that the first time you saw these men was when they assisted her on the— A. On to the trolley car.

Q. —you meant they walked her from the ferry house to the trolley car and put her on. That is what you meant, is that right? A. Yes, sir.

Q. Now, you have never seen this woman's picture before except here, have you? A. Well, I might have saw her in the papers.

Q. Well, you don't remember seeing her, do you? A. Well, I wouldn't say that. I would say Yes, I saw it in the papers several times.

Q. Well, have you? A. To be truthful.

Q. Well, of course, to be truthful. A. If I said "No" why, I would be lying.

Q. Nobody has invited you to say no or yes. Just answer the questions as you see fit.

Mr. Wilentz: Will you let me have the last few answers about that picture, please?

(The reporter read as follows:

"Q. Is that what you mean when you say they assisted her on the trolley car—")

Mr. Wilentz: About the woman.

(Reporter reads as follows:

"Q. When you said some time ago that the first time you saw these men was when they assisted her on the— A. On to the trolley car.

"Q. —you meant they walked her from the ferry house to the trolley car—")

Mr. Wilentz: Just the questions, please, about the woman.

(The reporter read as follows:

"Q. You have never seen this woman's picture before except here, have you? A. Well, I might have saw her in the papers.

"Q. Well, you don't remember seeing her, do you? A. Well, I won't say that. I would say yes, I saw it in the papers several times.

"Q. Well, have you? A. To be truthful.

"Q. Well, of course, to be truthful.

"A. If I said no, why, I would be lying.")

By Mr. Wilentz:

Q. When you say you might have, what do you mean by that? A. I might have seen it in the paper.

Q. You might have seen the picture of the woman whose picture you see in the courtroom in the paper? A. Yes, I might have.

Q. You might have seen it several times? A. I might have seen it several times.

Q. And you might not have: is that what you mean? A. No, I wouldn't say I didn't, because I remember I did.

Q. You remember you did? A. Yes.

Q. When is the first time you saw the picture of this lady in a newspaper? A. Oh, quite some time ago, I think.

Q. How many times did you see it? A. Well, I didn't count them.

Q. You said, I think, on your direct examination that the woman that you saw resembled, I think you said— A. Yes, I say again the same thing, resembles her very strongly.

Q. But you wouldn't say positively it was the same woman, would you? A. No, because—

Q. Never mind "because," the "No" is sufficient.

Mr. Wilentz: What number is this?

The Reporter: D-3 for Identification.

Q. So that you have said No, that you won't say for a certainty that the woman whose picture is Exhibit D-3 for Identification is the same woman that you saw on the boat or that you saw getting on the trolley car? A. I said it resembles her very strongly.

Q. But you won't swear it was the same woman, will you? A. No, not unless I know her name.

Q. It might have been somebody else, then? A. If she had any marks of identification—

Q. It might have been somebody else, isn't that so? A. It might have possibly.

Q. Certainly. A dark-haired woman? A. Yes, she had dark hair.

Q. Will you take a look and see if you saw the man whose picture I show you now before. A. I can't say that I recognize that man.

Q. Will you say that is not the man that you saw in the boat? A. I won't say yes or I won't say no.

Q. You wouldn't say yes and you wouldn't say no? A. No.

Q. Will you say you didn't see that man on the trolley car? A. No, I wouldn't say yes or I wouldn't say no.

Q. Does he look like him? A. Somewhat, and again he doesn't.

Q. He looks like him. Maybe yes and maybe no? A. Maybe yes and maybe no.

Q. He may be the man you saw on the boat and he may not be, is that right? A. That's it, yes, sir.

Q. He resembles him, doesn't he? A. He resembles him, yes.

Q. He resembles him.

Mr. Wilentz: Mark this, please, for identification.

The Reporter: S-288 for identification.

(Photograph marked Exhibit S-288 for identification.)

Q. So that S-288 resembles the man you saw on the boat? A. I didn't say positively; I say may and may not.

Q. Yes. Now we are getting away from the "may" and "may not." We are talking about resembling now. He resembles him or he—he does resemble him, I think you said. A. (No answer.)

Q. Do you want to look at it (showing photograph to the witness again.) A. In a way he does and in a way he doesn't.

Q. Yes. He resembles him in a way and in a way he does not resemble him, is that right? A. Yes, sir.

Q. You won't say this was not the man you saw? No, I will withdraw that. Will you say that this is the man you saw help that woman and child on to the trolley car? A. No, I wouldn't say that.

Q. Will you say that he wasn't the man? A. That I wouldn't say either.

Q. You wouldn't say he was and you wouldn't say he wasn't? A. No.

Q. He was dark? A. Yes.

Q. Sir? A. He was dark.

Q. Dark hair? A. Well, not very dark.

Q. Not very dark. What do you mean? What difference do you make between dark and not very dark? A. Well, some has jet black hair, some has sort of a chestnut hair.

Q. This man had a sort of a chestnut hair, is that right? A. I wouldn't commit myself on it.

Q. Well, you said he wasn't very dark. A. He wasn't very dark. His complexion wasn't very dark.

Q. His complexion wasn't very dark? A. I didn't take particular notice of his hair.

Q. His hair was dark but not very dark, is that what you mean? A. Yes.

Q. Would you say it was a sort of chestnut dark? A. About a chestnut.

Q. About a chestnut dark. Was his hair as dark as mine? A. No. I don't say it was as dark.

Q. It wasn't as dark as mine. Was it as dark as yours? A. I don't know. I can't see mine, unless I look in the looking glass. (Laughter in the courtroom.)

Q. There is still some left. A. Well, thank God for that.

Q. How about this gentleman here? Was it about the color of this gentleman that I am pointing to, Mr. Keaten? A. No, sir.

Q. Darker or lighter—I don't mean the man, I mean the color of the hair. A. I didn't take particular notice. I said he was sort of a fairer complexion than what you are; you are dark. I would judge you are dark.

Q. Yes. He was of a fairer complexion? A. Yes.

Q. Than the young man who is examining you now, is that it? A. Yes, Mr. Wilentz.

Q. That is right. Now let's see. By what department were you employed in New York as a finger-

print expert? A. I was with the Magistrate's Court.

Q. Well, by whom were you employed, by what department? A. Why, that comes under the Magistrate's Court.

Q. What Magistrate? A. Why, 300 Mulberry Street is the headquarters for that.

Q. Take a look at this picture, please. Did you ever see this picture before? A. That is similar to the one Mr. Reilly showed me.

Q. Yes. Did you ever see it before? A. No, sir, I never saw it until I saw it in the courtroom today.

Q. Did you ever see that picture of that man any other place? A. I may have seen it in a newspaper. I wouldn't say for sure.

Q. You are not sure? A. (No answer.)

Q. You won't say for sure that you ever saw the picture of this man in the newspapers? A. I won't say for sure.

Q. A little louder, please. A. I won't say for sure that I saw it in the newspaper, no.

Q. No. So that you worked as a fingerprint expert in the Magistrate's Court, the address of which you have given? A. Yes.

Q. When was the first time you saw this picture? A. Why, today in court.

Q. Referring to D-5. A. Today in court.

Q. The first time you ever saw this picture? A. (Nods head.)

Q. And the second occasion was when I exhibited it to you? A. Yes, sir.

Q. You wouldn't swear that you ever saw the picture of this man in any newspaper in your life? A. No, I wouldn't swear I did or I wouldn't swear I didn't.

Q. The first time you ever came in to testify about this man, you came all the way from New York to New Jersey, to Flemington, to testify about a man

whose picture you never saw, is that right? A. I wouldn't—

Q. Or am I mixing you up again? A. I wouldn't say I didn't see it in the paper and I wouldn't say I did.

Q. That is right. Well, you came here from New York to testify in this very important case. The first time you ever saw a picture of the man who you say helped this woman on the trolley car was when Mr. Reilly exhibited to you in court today? A. To the best of my knowledge, yes. I may have seen it in the paper. I didn't—

Q. You wouldn't swear to that? A. I wouldn't swear to it.

Q. No. And so it just happened that he showed you the picture of the fellow that was on the boat or the fellow that helped the woman and child on the ferryboat? A. No, I wouldn't say that.

Q. All right.

Q. You never saw this before in your life until you walked into this courtroom? A. I said I may have saw it in the paper; I wouldn't say for sure whether I did or not.

Q. You wouldn't say for sure that this is the man either, that you saw help the woman, would you? A. I am more than positive, yes.

Q. More than positive? A. Yes.

Q. How much more, how much is more than positive than positive? A. (No answer.)

Mr. Wilentz: If your Honor please, I want to spend a little time with him, not very much; but it is twenty minutes to five.

Mr. Reilly: May we continue with him, because he comes from New York and I would like to have him finish and go home and be down here on Monday?

Mr. Wilentz: I would like to have him come back on Monday, if your Honor please.

The Court: Well, it is later than recess time. I think we will take an—

Mr. Wilentz: We will be willing to pay the gentleman's expenses, if that is any consideration.

The Court: Well, you may talk with the gentleman about that if you wish. We will take a recess now until Monday morning at ten o'clock. The people will remain seated. The jury may retire.

Mr. Wilentz: Will your Honor direct the witness to return Monday.

The Court: Yes, Mr. Witness, you will return here Monday morning.

The Witness: Yes.

(The jury retired at 4:40 p. m.)

The Court: The prisoner is remanded to the custody of the Sheriff. The court will now adjourn until ten o'clock Monday morning.

(The further trial of the case was adjourned until Monday morning next, February 4, 1935, at ten o'clock.)

Opening of Twenty-fourth Day

STATE vs. HAUPTMANN

Flemington, N. J., February 4th, 1935.

TWENTY-FOURTH DAY

Present:

Hon. Thomas W. Trenchard.

Appearances:

Mr. Wilentz,
Mr. Lanigan,
Mr. Peacock,
Mr. Large,
Mr. Hauck,
For the State.

Mr. Reilly,
Mr. Fisher,
Mr. Pope,
Mr. Rosecrans,
For the Defendant.

(10:08 a. m.)

(The jury was polled and all jurors answered present.)

The Court: Judge Robbins has requested me to announce that he will hold the Orphans' Court in the Surrogate's office. Any person present who has any

business before the Orphans' Court had better retire to that office.

I very much regret to be informed that there have been taken in this courtroom some movie and talking pictures of the trial and, of course, it is well understood that that was done in defiance of the orders of the Court, and I think it is equally well understood that it must have been done secretly and by methods that are not commonly understood.

Now, this subject matter will be investigated and my only purpose in speaking of it now at this time is to caution the officers that they will, by reason of the secret way in which these pictures are taken, they will have to be especially vigilant in seeing to it that these contrivances, designed or making possible the taking of these movies, movie pictures and talking pictures, that those contrivances be excluded from the courtroom, and the officers will have to be very diligent and may be very ingenious to break up this practice. There is the problem and it is the problem of the officers to do the best they can to prevent these violations against the orders of the Court. All such instrumentalities are to be excluded from the courtroom, it doesn't make any difference who undertakes to bring them in. The agents and employees of these companies that are producing these pictures in violation of the orders of the Court will be excluded from the courtroom.

Mr. Reilly, you may now proceed.

Mr. Reilly: We were on cross-examination of Mr. Sommer, weren't we?

Mr. Wilentz: Yes.

Mr. Reilly: Mr. Sommer.

PETER H. SOMMER, resumed the stand.

Cross Examination (Continued) By Mr. Wilentz:

Q. Now Mr. Sommer, as I understand it, you saw a small man with a taller man help a woman with a child onto a trolley car in New York? A. Yes, sir.

Q. That small man you hadn't seen before you saw him help the woman on the trolley? A. That is, I saw him on the boat connected up with the big man on the boat.

Q. Now you testified here Friday that you never saw that small man— A. Pardon me.

Q. Just wait a minute. We will have a chance to adjust it. You made a mistake Friday; the week end has been spent, and if you want to correct it now, it is all right, I won't quarrel with you. A. I want to correct that statement.

Q. You want to correct it? A. I want to correct that statement.

Q. So that when you testified here Friday that you met a small man, you saw a small man and a tall man on a trolley car, they were sitting in front of you or somewhere, smoking cigarettes, and then later you saw the tall man, but you never again saw the small man, you were mistaken? A. The short man that came down in the trolley car with the tall man, I didn't see him after we reached the ferry house.

Q. You never saw the small man again? A.

No, not after that, that one, that was in company of the tall man that came down.

Q. But you did see the small man on the boat? A. I saw another small man on the boat, yes.

Q. Now, you will please stop evading and answer the question. A. I am not evading.

Q. The small man and the tall man you saw on the trolley car? A. Yes, sir.

Q. Did you see the same small man on the ferry boat? A. Not that one, no, sir.

Q. That is the one I am talking about. A. Yes, sir.

Q. Now, there is no mistake about that? A. No.

Q. The small man that was on the trolley car in Weehawken you didn't see on the boat? A. No, sir.

Q. That is your impression now? A. Yes, sir.

Q. And that is your testimony? A. Yes, sir.

Q. Now, you have had the week end to think about it? A. I didn't think about it.

Q. Oh, now, you mean you didn't think about your testimony? A. No.

Q. You didn't. But there is no question in your mind that the small man you saw on the trolley car you never saw again? A. No, sir.

Q. You didn't see him on the boat? A. No, sir.

Q. And the small man—where is that D-5—So that the small man that you saw help this woman you testified here either was or resembled D-39? A. Yes, sir.

Q. D-39: that is the man? A. Resembles him very strongly.

Q. Resembles him very strongly? A. Yes.

Q. But when you are talking about this Exhibit D-39, you are talking about the man who helped the woman? A. Yes, sir, that assisted the woman onto the car.

Q. Yes, not the man who you saw on the trolley car or on the boat? A. No, sir.

Mr. Wilentz: Can I have D-7 for identification? What is D-7 for identification? Or Exhibit D-5. Is this D-5? That is the one I want.

Q. Now, here is another picture. Is this the man that you saw on the—on that trolley car or rather helping the woman and the child? A. Why, this resembles somewhat of the man that helped the woman.

Q. A little louder. A. This resembles somewhat the man that helped the woman on the car in New York.

Q. This resembles somewhat the man who helped the woman with the baby on the car in New York? A. Yes, sir.

Q. How about the other one I just showed you, D-39? A. Well, that looks similar, too.

Q. That looks similar, too? A. Yes, sir.

Q. Are they one and the same person? A. That I can't say.

Q. You can't say? You have looked at two pictures, D-39 and D-5, you are talking about only one short fellow who helped the woman? A. Yes, sir, that is all.

Q. Well, will you say which one of these two helped? A. Well, if you show me both of them I may decide.

Q. (Handing witness one picture.) A. Can I look at the other one?

Q. Yes, after you look at that one and tell us— A. Why, that seems to be a better picture and I would say that one.

Q. Sir? A. I would say this one.

Q. You are not weak this morning, are you? A. No, sir.

Q. I see. A. Just a little hoarse.

Q. A little hoarse? A. Yes, sir.

Q. That is a better picture and it resembles the man, is that what you mean? A. Yes.

Q. You wouldn't swear positively that was the man, would you? A. A very strong resemblance.

Q. You wouldn't swear in this court room positively that that is the man you saw help the woman, would you? A. No; I would say it is positively a strong resemblance.

Q. But you wouldn't swear it was the same man, would you? A. No, I wouldn't swear, no.

Q. No, you wouldn't. Well, of course you know you are here to swear to the things that you say. Now, let's see. But at any rate, whether it is the man or whether it isn't the man or whether it resembles him or whether it doesn't, that man you did not see on the boat? A. No, sir.

Q. Now, Friday you and I had a little difficulty following your statement that I was mixing you up. A. Yes.

Q. Of course you know I wasn't, don't you? A. I don't suppose you purposely done it.

Q. Certainly not. You are in a little better humor this morning, aren't you? A. (No answer.)

Q. Well, let me read you your answer to Mr. Reilly, see if you want to change your testimony just now about the little man being on the boat: "I show you a picture and ask you whether or not that resembles the man, or is that the man, one of the men that you saw on the trolley car (showing exhibit D-5)". Now that is the question of Mr. Reilly, showing you exhibit D-5 (handing Exhibit D-5 to the witness); just hold that. I will read the question again: "I show you a picture and ask you whether or not that resembles

the man or is that the man, one of the men that you saw on the trolley car (showing exhibit D-5 to the witness)". "No, but I saw this man on the ferry boat." Now, was that correct or not? A. Why, I will change that now; I wouldn't say positive that was the man that was on the boat. It was the man that assisted the woman on the trolley car.

Q. Let's stay with the ferryboat for a minute. A. Yes, sir.

Q. So that when you said to Mr. Reilly in answer to his questions that this was the man, D-5, "No, I don't remember him on the trolley car but I saw this man on the ferryboat," that was a mistake: is that it? A. Yes, sir.

Q. Sir? A. Yes, sir.

Q. Now, let's see. Then you were asked this question:

"Now, when the ferry boat landed in New York what did the man opposite you whose picture you have identified here," that is this one here, "what did he do?" And you answered: "Why, they went out of the boat and I proceeded to the Cross-town car."

Now, when you said they went out of the boat were you mistaken then too? A. I meant the tall man walked out of the boat.

Q. Well, nobody stopped you from saying "The tall man." It was Mr. Reilly examining you. He wasn't mixing you up, was he? A. I don't know.

Q. You don't know? A. No.

Q. You are a professional witness, aren't you, Mr. Sommer? A. Well, I don't qualify as a professional. I only come here to tell of the incidents that I saw that night, regardless of—

Q. I thought you came here in the interests of justice? A. I did, yes.

Q. Well, the question right now is whether or

not you are not a professional witness? A. Why, if I qualify as a professional witness—

Q. Sir? A. I don't know as I qualify as a professional witness.

Q. Don't get weak now, just talk right up. Are you not a professional witness?

Mr. Pope: We object to the question. What is a professional witness? This is the first time I ever heard of it.

Mr. Wilentz: I will change it then to satisfy counsel.

Q. Do you not testify in court for a price? A. Why, I haven't spoken about any price.

Q. I know you haven't. You answer the question. Don't you come to court on occasions and testify for a price, for a reward, for money? A. No, sir, I do not.

Q. Haven't you on occasions testified for money and then later when the money wasn't paid stated and admitted that you testified improperly? A. No, sir.

Q. How many cases have you testified in that you can remember? A. Why, I testified in—

Q. A little louder, please. A. About two, I believe.

Q. All right. Tell us the cases that you testified in? A. Why, one for the Brooklyn Railroad Company.

Q. One for the Brooklyn Railroad Company with reference to a claim against them? A. Why, yes.

Q. Do you remember the name of the person who sued the Brooklyn Company? A. No, I do not.

Q. Who else did you testify for? A. Why, I testified for the State of New Jersey.

Q. In the Hall-Mills case? A. Yes, sir.

Q. You weren't a fingerprint expert in that case, were you? A. No, sir.

Q. As a matter of fact, you never passed a Civil Service examination for a fingerprint expert, did you? A. Why, I did, yes, sir.

Q. Answer the question: Did you or didn't you? A. I did.

Q. You passed an examination? A. Yes.

Q. When? A. Some time ago. I have the paper right here.

Q. In what capacity did you testify for the State in the Hall-Mills case? A. In what capacity?

Q. Yes. A. As a witness for the State.

Q. Well, you were a detective, weren't you? A. I was an operator.

Q. You were an operator for a detective agency? A. Yes.

Q. And by whom was the detective agency employed? A. Why, William A. Jones.

Q. I mean, who were they representing, the detective agency, the State or the defense? A. Why, they were representing the defense at the time.

Q. So you worked for a detective agency representing the defense and then you testified for the State, isn't that right? A. Yes, sir.

Q. Now, let's see what else, what other cases did you testify in? A. Why—

Q. That you can remember. A. I don't remember any other.

Q. Well, you did testify in others, didn't you? A. Not that I recall just now.

Q. You don't mean to sit there and say that you don't remember other cases that you have testified in? A. I can't recall what case just now.

Q. I can't hear you, not even here. A. I say I can't recall what cases they were just now.

Q. What is the address of Mr. Reilly's office in Brooklyn? A. 26 Court Street.

Q. You know that building, don't you? A. Why, I passed that building several times.

Q. You know where the building is, don't you? A. Yes, sir.

Q. You have been in that building, haven't you? A. I have been in that building twice.

Q. Twice? A. Yes, sir.

Q. You are around that building many times, aren't you? A. No, sir.

Q. Did you ever use any other names besides Sommer? A. No, sir.

Q. You did not? A. No, sir.

Q. But you only remember two cases that you testified in? A. That is all I remember now, yes, sir.

Q. Do you remember the case of Adeline Smith versus the Peerless Glass Company and Mink Brothers? A. And Mink Brothers, why, yes.

Q. Did you testify in that case? A. I did, yes.

Q. You testified falsely in that case, didn't you? A. No, sir, I did not.

Q. Now, that case involved an accident which happened in 1928, isn't that so? A. Yes, sir.

Q. And you testified in that case that you had been at the stand, the scene of the accident on various occasions before 1928, did you not? A. If they put that down, I did not testify to it.

Mr. Pope: We object to the question.

A. If I remember rightly.

The Court: The witness, I think, has answered the question, I didn't get the

answer myself. Do you want it stricken out?

Mr. Pope: Well, as long as it is answered, we will let it stop or let it stand.

Q. Is this your—

Mr. Wilentz: Is that disposed of, if your Honor please?

The Court: Yes, disposed of.

Q. Is this your signature, Mr. Sommer, Peter H. Sommer? A. Yes.
Q. And the next page? A. Yes, sir.
Q. And the next page? A. Yes, sir.
Q. And right on, each one of these pages? A. Yes, sir.
Q. Right through to page 7? A. Yes, sir.
Q. Is that your affidavit? A. Yes, sir.

Mr. Wilentz: I will ask that the affidavit be marked for identification.

The Reporter: S-289 for Identification.

(Affidavit marked State Exhibit S-289 for Identification.)

Q. Now that was a case which involved a lawsuit in which a young lady was injured, lost an eye, I think; do you remember that? A. Yes, she lost an eye.
Q. She lost an eye as the result of an accident at her father's stand: isn't that right? A. Yes, sir.
Q. And you were called as a witness with

reference to that accident, isn't that so? A. Not with reference to the accident,

Q. But with reference to what happened at the stand on various occasions prior to the accident? A. Yes, sir.

Q. The accident happened in 1928, did it not? A. That I don't know, what year it happened.

Q. Well, at any rate, the case was tried in 1930? A. About that time, yes.

Q. And you testified that you had been at that stand on various occasions? A. At various occasions.

Q. Yes. Prior to the time of the accident? A. If they put that down that was not my testimony.

Q. What did you testify to? A. I testified—

Mr. Pope: I object to the question as improper cross examination.

The Court: I don't see just how it is relevant or material.

Mr. Wilentz: Well, if your Honor please, we propose to prove, if counsel and the Court will be just a little patient with us, that this man testified falsely, knowingly, and the inquiry is for that purpose; and he testified for a price or for a promise of a price, and when it wasn't forthcoming he retracted his testimony.

Mr. Pope: We object to that statement.

Mr. Wilentz (Continuing): —to attack his credibility.

Mr. Pope: We ask that the Attorney Gen-

eral be admonished and the jury instructed to disregard his statement.

The Court: I don't perceive how it is proper cross-examination

Mr. Wilentz: Well, the witness testified he does not testify for a price.

The Court: You may ask him whether or not he testified for a price in that particular case.

Mr. Wilentz: All right.

By Mr. Wilentz:

Q. Did you not testify in the case of Adeline Smith vs. The Peerless Glass Company and Ming Brothers & Company in 1930, because you were promised money? A. They told me they would—

Q. Please answer the question. A. (continuing) —pay my expenses.

Q. Please answer the question. Now, did you not testify in that case, the Smith case, for money, even though you knew nothing about the case? A. I didn't testify for money or a promise of money.

Q. You didn't know anything about the case, though, when you testified, did you? A. Any more—

Q. Please answer the question. You did not know anything about the accident? A. Not the accident, no, sir.

Q. And you knew nothing about that place prior to the accident, did you? A. No, sir.

Q. But you did testify in court to the contrary,

didn't you, that you did know? A. Of the conditions that went on there.

Q. Yes. You testified to conditions that went on there prior to the accident? A. If that was stated, that was not so. I didn't state that. In fact, I had a row with the lawyers when I went into court.

Q. All right, we will see now. Do you remember in this affidavit you said, referring to some lawyer or his representative: "He then discussed with me"—

Mr. Pope: Object to this, if your Honor please. This is not proper cross-examination.

Mr. Wilentz: This is directly on the point, if your Honor please.

The Court: What point?

Mr. Wilentz: On the point of whether or not he testified falsely at this trial, for a consideration.

The Court: Well, I don't see how it is competent for you to go into the question of the falsity of this testimony.

Mr. Wilentz: Except for the purpose of attacking his credibility now, where he has admitted it, if he admits it.

The Court: Well, you may ask him, if you see fit, whether or not he testified falsely in that case. You have already asked him whether or not he testified for a price and that he has denied.

Mr. Wilentz: Yes. That is just why I think, if your Honor please, I have a right to interrogate him on that denial if I have the basis—

The Court: Well, you have been permitted to do that. Now then, it seems to center around the question of whether or not he testified falsely, and on that you may examine him, if you wish.

By Mr. Wilentz:

Q. When you weren't paid money in this case, didn't you threaten to go to the District Attorney?

Mr. Pope: We object to the question.

The Court: I sustain the objection.

Q. Didn't you testify improperly and falsely in this case? A. Not to my knowledge, no, sir.

Q. Didn't you then make an affidavit, after you had given your testimony, didn't you make an affidavit then that you had testified falsely? A. I made an affidavit that the lawyer wanted me to testify to certain things which I did not see.

Q. But you did testify to those things which you did not see, didn't you? A. Not to my knowledge.

Q. Well, now you know, do you not, that you testified in 1928—in 1930 you testified to things that occurred in 1928 which you never saw and knew nothing about. Isn't that a fact, Mr. Sommer?

Mr. Pope: We object to the question.

The Court: I sustain the objection.

Q. Well, with reference to this affidavit of yours, this is accurate, isn't it? A. So far as I know of, I didn't read it over.

Q. Well, you read it when you signed it, didn't you? You signed each page? A. I signed each page, yes.

Q. And you read it when you signed it, didn't you? A. Yes, sir.

Q. And so it must be accurate and correct, isn't that so? A. Unless it was changed. That I don't know.

Q. Unless it was changed? A. That I don't know; it hasn't been in my hands.

Q. Had you ever been to the Smith stand before 1928? A. That I don't remember.

Q. Well, you swore that you, you swore in this affidavit that you hadn't been, isn't that a fact?

Mr. Pope: We object to this, if your Honor please. We have objected so many times, we think it ought to be stopped.

The Court: I sustain the objection; I sustain the objection.

Q. Will you say now that you did not testify falsely in this Smith case? A. Not to my knowledge, no, sir; I did not testify falsely. In fact, as I stated when I walked in there, the lawyer came to me, he had an artificial arm and he took me aside and he wanted for me to say certain things, which I absolutely refused, and he said, "Well, if you don't want to say,"—he says, "You might as well go home." I says, "I can go home right now."

Q. Did you go home? A. Why, no, I didn't go.

Q. Did you testify? A. I testified; yes, sir.

Q. And you testified about a matter of which you knew absolutely nothing, isn't that right? A. I testified about certain bottles that exploded there, which I did witness.

Q. That's so, but the date you made a mistake in, didn't you? A. If there was a mistake it wasn't deliberately done.

Q. No, but you found out later you made a mistake as to the date, didn't you? A. I think my attention was called to it, yes.

Q. And you found out that you had made an error about the date, isn't that right? A. Yes, sir; yes.

Q. Yes. So that when you were on the stand in 1930 you testified that you saw these bottles explode before 1928, and then later you found out that when you saw them explode it was after 1928, isn't that right? A. That was after she had the accident.

Q. Yes. A. That I saw the bottles explode.

Q. It was after she had the accident that you saw the bottles explode, but in your testimony you made the mistake of testifying that you saw the bottles explode before the accident, isn't that right? A. Not to my knowledge I didn't.

Q. Not to your knowledge? A. No, sir.

Q. Now you hadn't been down to that place prior to 1928, had you? A. I might have been; I won't say.

Q. Well, you never remember being there? A. I used to go back and forth there quite a good deal.

Q. You don't ever remember being to Smith's stand before 1928, do you? A. I can't say positively yes or no.

Q. Well, you wouldn't swear that you had been, would you? A. No, I would not.

Q. No. But you did swear in that court that you had been? A. Not to my knowledge, no, sir.
Q. All right. Let me read to you the question and the answer then.

Mr. Pope: Now, if the Court please, we object to this. We can't go into an issue in that case here, the trial of this case. This is improper cross-examination. I think the Court has overruled it once, and it ought to stop.

Mr. Wilentz: If your Honor please, now this man has testified that he had never testified for a price and, in particular, in this case, and I think we have a right to probe.
After all, I think the Court and jury have a right to know the manner of witness we have before us. It is not only lip testimony that counts and it is directly in point as to the truth or falsity of his testimony there, the point being whether or not he knew anything about this matter before 1928, the date of the accident.

Mr. Pope: That raises a new issue in this trial which we would have to meet by probably calling witnesses. We cannot try two or three cases here.

Mr. Wilentz: We are not going to try two—

The Court: This matter which you are examining from is a collateral matter, is it not?

Mr. Wilentz: Yes, if your Honor please.

The Court: Well, now, you are bound by the answers that you get as the cross examiner, aren't you?

Mr. Wilentz: After we have probed into his testimony.

The Court: Yes.

Mr. Wilentz: That's all I want.

The Court: Now you have probed into his testimony.

Mr. Wilentz: Not as to this particular thing, if your Honor please.

The Court: And what is that?

Mr. Wilentz: Whether or not, specifically as to the important thing, whether or not in that case he testified to something that occurred prior to 1928, which he now says he doesn't remember that he ever saw there before 1928, and I asked him if he didn't so testify that he had been there. I think he said no. Now I want to show him by his testimony—

The Court: Of course, you are bound by his answer.

Mr. Wilentz: Well, I am willing to be, if your Honor please, if I may be permitted to ask him.

Mr. Pope: That is not the situation at all. The witness was asked if he didn't testify that he saw a bottle explode before 1928; he afterwards learned it was after 1928; did he so testify. It seems to me that's all there is to it.

Mr. Wilentz: Well, may I ask him on that partciular point just a question or two.

By Mr. Wilentz:

Q. So that at the trial you testified to the explosion of bottles before 1928 and then later learned that you had been mistaken, that the explosion of those bottles that you saw was after 1928? A. After 1928 is when I saw the bottles explode.

Q. And you testified in court that it was before 1928? A. That was an error made, which I went and had it corrected later on.

Q. And you went and had it corrected with the affidavit? A. Yes.

Q. But isn't it a fact that you only had it corrected because you weren't paid the money? A. No, sir.

Q. Isn't it a fact that you then threatened to go to the District Attorney and tell him about it? A. I said I would go to the District Attorney and tell, because this fellow wanted me to lie in court.

Q. And when he paid you $15 you didn't go to the District Attorney, isn't that right? A. Why, I was going to—the case was—

Q. Isn't that— A. The case was coming up again.

Q. Yes, and then he paid you $15, didn't he? A. That was my expenses.

Q. Yes, he paid you the $15 after you argued about the District Attorney? A. I didn't argue with him.

Q. But, you did threaten to go to the District Attorney if he didn't pay you? A. I did, yes.

Mr. Wilentz: Yes, that is all.

Mr. Reilly: Is that all?

Mr. Wilentz: Yes, sir—oh, pardon me, just one question.

Q. You don't work for the City of New York, do you? A. Yes, sir, I work for the Building Management & Supply Department of the D. P. W.

Q. You mean the C. W. A.? A. The D. P. W., it is under the head of the D. P. W.

Q. That is— A. 902 Broadway, New York

Q. Is that in connection with the Relief Bureau? A. Why, in connection, they conjunct together.

Q. That is, you are assigned by the C. W. A., aren't you, Civil Works Administration? A. Why, no, it doesn't come under that, it comes under the Building Management & Supply Department.

Q. I mean, are you paid by the City or paid by the Federal Relief? A. I am paid by the City, the check from the Finance Department.

Q. All right. Who is your boss, the employer? A. Mr. Dashnell.

Q. Mr. Dashnell? A. That I really don't know, D-i-a-g-i-a—I think, or something like that.

Re-Direct Examination by Mr. Reilly:

Q. In this case that you have been questioned

about, what was it, an accident in 1928? A. From what I understand, it was in 1928 or thereabouts.

Q. When did it come up in court, 1930? A. I think it was 1930. I wouldn't be positive.

Q. Well, there was a space of a couple of years between the accident and the trial, is that right? A. Yes, sir.

Q. You did not see the accident? A. No, sir.

Q. Were you called as a witness to demonstrate the theory of law in the State of New York that like accidents of exploding bottles had occurred at this stand prior to the date that the girl was injured? A. Why, the man came up—

Q. Was that the theory, yes or no? A. Why, that I really don't know. They came up to me and wanted me to testify that bottles had exploded at the stand while I had been down there.

Q. Had you seen bottles explode at the stand? A. I did.

Q. Sometime— A. Yes, sir.

Q. —before 1930? A. Well, that I can't—

Q. Before the trial? A. Yes, before the trial.

Q. Before the trial. A. Yes, sir.

Q. And you gave your testimony, did you. A. To what I had seen there.

Q. Before the date of the accident and the date of the trial you gave your testimony in 1930, is that right? A. Thereabouts.

Q. Now, whether you gave testimony in that action or not there isn't any doubt but what you were on this ferry boat, is there? A. I was on the ferry boat, yes, sir.

Q. There isn't any doubt but what you have told us here what you saw, is that correct? A. That is correct.

Q. Is it a fact that you reported the next day to the police? A. It is.

Q. Did you have anybody with you when you went to the police? A. I did.

Q. Who were they? A. Why, two young men, one by the name of Joseph Dutt and one by the name of Carl Jugg.

Q. And where did you report this to the police and when? A. Why, I reported it to the 81st Precinct. It was about noon. I would say about eleven o'clock or thereabouts.

Q. When? A. Why, the next day.

Q. March the 2nd, 1932? A. March the 2nd.

Q. And of course the defendant Hauptmann was not under arrest then, was he? A. Not that I know of.

Q. And you didn't anticipate that you ever going to testify in any trial of Hauptmann on March the 2nd, 1932, did you? A. No, sir.

Q. And have you brought the two men from New York with you into Jersey today that went to the station house with you? A. I didn't bring them, they volunteered to come their selves.

Q. Well, are they here? A. They are.

Q. And they are in Flemington now? A. Yes, sir.

Mr. Reilly: That is all.

Re-Cross Examination by Mr. Wilentz:

Q. The woman you saw on that boat, did you ever see a picture of her afterwards? A. I have seen pictures in the newspapers since.

Q. When was the first time you saw a picture? A. Well that—

Q. How long after the crime? A. That I can't just recall.

Q. How long after the crime did you see a pic-

ture of the short man? A. Well that I can't recall.

Q. Was it a year, was it a day, was it two years? A. That I can't say.

Q. Was it within two years or two months of the accident? A. Well, I would say about a year and a half.

Q. After the accident? A. Yes.

Q. After the crime? A. After the crime.

Q. That's March, 1932? A. Yes.

Q. That would be March, 1933? A. Yes.

Q. Some time during 1933? A. Some time there, yes.

Q. Well, it would be some time before January the 1st, 1935, wouldn't it? A. Yes, sir.

Q. It would be some time between January the 1st, 1934, wouldn't it? A. Yes, sir.

Q. No question about that? A. No question.

Q. And the woman's picture, you don't remember when you saw that? A. Why no, I don't know.

Q. But the man's picture, who you think resembles this picture in evidence here, D-5, is it, or D-7 for Identification, that picture you saw before January the 1st, 1934, in a newspaper? A. Yes, sir.

Q. No question about that? A. No question.

Q. Why, don't you know that the picture of that man never appeared in any newspaper in this world until after September, 1934? A. That I don't know.

Q. What? A. That I don't know. I have seen several pictures.

Q. Well you are here to testify to what you do know. A. Well, I don't keep track of the dates of the papers.

Q. I am not holding you to any dates. You said before January the 1st, 1934, you said a

year and a half after the crime, from March 1st—A. I said about. I don't know just when it was I noticed the pictures.

Q. But you saw it before Hauptmann's arrest, this man's picture? A. Around about that time.

Q. Before his arrest? A. Around about that time. I wouldn't say it was before or after; it was around that time that I saw the picture.

Q. Well, that was about two years and a half, his arrest, after the crime, wasn't it? A. That I don't know.

Q. Have you ever seen this woman before (showing a photograph to the witness)? A. (The witness placed on his glasses.)

Mr. Wilentz: Please mark this while he is looking; also mark the next one.

The Reporter: Two photographs, S-290 for Identification and S-291 for Identification.

(Two photographs marked S-290 for Identification and S-291 for Identification.)

Q. (S-290 for Identification again handed to the witness.) A. What was the question?

Q. Have you ever seen that woman before? A. Why, I can't say on that.

Q. You wouldn't say yes and you wouldn't say no, is that what you mean? A. No, I didn't make any answer on that.

Q. Well, I want you to make some answer.

The Court: The question is, have you ever seen that woman before? Now what is your answer?

The Witness: Why, in that pose I never saw that woman before.

Q. Did you ever see that woman in any pose? You see her face, do you not? A. Yes, but her hair is different in this picture here.

Q. Different than what? A. Why, it is all fussed up; you can't see her face.

Q. Well, maybe that is the way she wears her hair. A. I don't know.

Q. Did you ever see that face before? A. Why, it seems to me that the face is somewhat familiar.

Q. Familiar to what? Does she live in the house in which you live now, that woman? A. No, sir.

Q. You would recognize her if she did, wouldn't you? A. I think I would.

Q. Is it a woman that you spoke to yesterday? A. I didn't speak to any woman yesterday.

Q. Is it a woman you saw on the night of March 1st, 1932? A. Somewhat from the front view, the nose and the mouth look somewhat like it, but I wouldn't say.

Q. Well, is it the woman you saw help the baby on— A. No, I would not—I won't say that; I won't make any answer to that.

Q. You won't say yes and you won't say no: is that what you mean?

Mr. Reilly: I object to that question of his as a newspaper headline, and I ask that the question be asked of him, what is his answer. The question "You won't say yes and you won't say no" is objectionable.

Mr. Wilentz: May I say to Mr. Reilly, if your Honor please, through your Honor,

that I think it comes with poor grace from him, talking about newspaper headlines.

The Court: Well, you have put a question and I think you are entitled to an answer.

Mr. Reilly: And I except.

The Court: Take your exception.

(Exception allowed and the same is signed and sealed accordingly.

THOMAS W. TRENCHARD (L. S.)
Judge.)

Q. You won't say Yes or No, will you? A. No, not on that.

Q. Not on that, Now, will you take a look at this picture?

Mr. Reilly: May I see it?

Q. Take a look at that picture and see if you have ever seen any of the women in that picture. A. (Witness examined picture carefully.) Not to my knowledge.

Q. Not to your knowledge. Well, we are talking about your knowledge. That is 301 for Identification.

Mr. Wilentz: Where is the picture you people had yesterday?

(Picture was handed to Mr. Wilentz.)

Q. Now you remember being shown this picture D-3 for identification? A. Yes, sir.

Q. You remember that? A. I remember it.

Q. Did you see this picture Friday in the court room? A. I saw a picture like that Friday, yes, sir.

Q. In the court room? A. Yes, sir.

Q. And do you remember this testimony with reference to that picture, "But you won't swear it was the same woman, will you?" "No, not unless I know her name." A. That is right.

Q. That was your testimony? A. Yes.

Q. So that you couldn't swear it was the same woman from the picture, could you? A. I say it is a strong resemblance of the woman.

Q. But you say, "No, not unless I know her name." A. (Shakes head.)

Q. So that in addition to the picture you need to know her name? A. Or if she had any marks of identification on her which I could—

Q. I am talking about this picture and your testimony when you were asked whether you wouldn't swear it was the same woman was, "No, not unless I know her name," is that right? A. Yes.

Q. Then you were asked this question, "It might have been somebody else," and your answer was, "It might have been." A. It might have, yes, sir.

Mr. Peacock: One moment, Attorney General.

By Mr. Wilentz:

Q. Just one other question. You stated a while ago that you saw this picture D-5 some time in the newspapers—D-5. A. Yes, sir.

Q. And we got into a little controversy as to when. Now, you remember your testimony in

court Friday: "When was the first time you saw this picture?" "Why, today in court." A. That particular picture; yes, sir.

Q. That is the first time? A. That particular picture, yes, sir.

Q. When you were on the stand? A. I stated that particular picture.

Q. On the stand? A. On the stand; that particular picture, yes, that was the first time I saw that particular picture.

Q. On the stand. So you walked on to the stand without ever seeing that picture to which you were going to testify? A. I have seen pictures in the newspapers.

Q. I am talking about that picture. A. That picture I never saw until it was shown to me on the stand.

Q. You walked on the stand without ever seeing it to identify it? A. That particular picture.

Q. Did Mr. Reilly ever show you any pictures when you came forward and volunteered? A. No, sir.

Q. Any of his assistants? A. No, sir.

Q. You never discussed the picture with him? A. Never, positively.

Q. With anybody? A. No, sir.

Re-Direct Examination by Mr. Reilly:

Q. Now, as a matter of fact, the first time you saw me was Friday noon, in Mr. Fisher's office: is that correct, at lunchtime? A. Yes, sir.

Q. There were no pictures shown you or no intimation that you should pick out any pictures? A. No. You walked in and didn't give me any instructions.

Mr. Wilentz: Just a minute. You have answered the question.

Q. You were not shown any pictures, were you, and told you were to identify these pictures in court, were you? A. No, sir.

Q. Now, you had never seen the people on the ferry boat before that night, had you? A. No, sir.

Q. But you looked at the woman that you saw on the ferryboat, is that correct? A. Yes, sir.

Q. And you have told us here— A. That is, I saw the woman on the car.

Q. You saw her again on the ferry boat? A. On the car, not on the ferry boat.

Q. When you were riding up 42nd Street you saw that woman? A. Yes, sir.

Q. Now, your best recollection is, is it, that this picture strongly resembles—

Mr. Wilentz: Just a minute. I object to the question being answered; aside from the fact that it is leading it has been answered many times.

Mr. Reilly: He has asked him four times about this picture; his answer has always been the same, that his best recollection—

The Court: The record speaks as to that. I am telling you that it seems to me your examination is leading, and he is your witness.

Mr. Reilly: All right, that's all.

Re-Cross Examination by Mr. Wilentz:

Q. Who did you come down to Flemington

with Friday? A. I came down with one of Mr. Reilly's representatives.

Q. What was his name? A. Mr. Weiss.

Q. Weiss? A. Weiss, I believe it was.

Q. All right, that's all.

(Witness excused.)

Mr. Reilly: Lupica.

SEBASTIAN BENJAMIN LUPICA, sworn as a witness on behalf of the defense.

Direct Examination by Mr. Fisher:

Q. Mr. Lupica, where do you live? A. New York.

Q. Where did you live in March, 1932? A. With my parents, Hopewell, New Jersey.

Q. A little louder, please, I can't hear you. I know the jury can't. A. With my parents, Hopewell, New Jersey.

Q. Well, in the Village of Hopewell or on the R. F. D.? A. Oh, about a mile north of the Lindbergh estate.

Q. On the same road as the Lindbergh estate? A. Yes.

Q. Would you go past the Lindbergh estate to get to your home? A. That is right.

Q. And what were you doing, how were you spending your time through the winter of 1932? A. I was attending, I was attending Princeton Preparatory School.

Q. As a student? A. Yes.

Q. And how did you get there mornings, and how did you get home nights? A. I communicated with a little car.

Q. Automobile? A. Yes.

Q. Drive yourself? A. Yes.

Q. Now, are you in court now under subpoena by the State of New Jersey in this case? A. I am.

Q. And did you appear as a witness for the State of New Jersey in the Grand Jury proceedings in which Mr. Hauptmann was indicted? A. I did.

Q. And even now you are under State subpoena, is that correct? A. Yes.

Q. Will you tell the Court and jury where you were in the early evening or late afternoon of March 1st, 1932? Tell them clearly and loudly so that everybody can hear. A. On the late afternoon of March 1st I was returning from Princeton preparatory—

Q. 1932? A. Yes.

Q. Go ahead. A. And I stopped at my letter box which is at Colonel Lindbergh's gate house.

Q. Will you speak a little louder, Mr. Lupica? I can't hear you and I doubt if the jury can. Just speak right up loud. A. I was returning from school on March the 1st, I think I left school about five o'clock, and I stopped at the letter box which is at the end of the Lindbergh Lane, and I got my mail and I started up the road.

Q. Well, now, as you started up the road what was your attention directed to? What did you see? A. Well, I had my mail and I was interested in reading my mail, so I stopped in the road to read it. However, while I was reading the mail, I looked up and I noticed a car come around the bend, but before I could get into motion this car pulls on the wrong side of the road and he parks on an incline, which is an entrance to a corn field.

Q. In other words, he pulled across the road to your right, the wrong side of the road for him, is that correct? A. That's right.

Q. And what happened? What did he do when he got over there? A. Well, he stopped.

Q. How wide was the road at that point? A. I should say from two and a half cars to three cars could pass.

Q. Wide enough for him to have passed you if he had continued on the right side of the road where he belonged? A. Absolutely.

Q. All right. Now after he pulled over to the left what did he do? A. Well, he stayed there and I figured well maybe he wanted to have me pass him, so I started to go on up the road and I passed him on his right.

Q. Now as you passed that car did you notice anything in the car other than the occupant? A. Yes, I did.

Q. What did you see there? A. I saw two sections of a ladder.

Q. How was it in the car? A. It extended from the windshield onto the rear glass, lying across the front seat.

Q. Resting on the top of the front seat? A. Yes.

Q. And again on the top of the seat or in the back of the car somewhere? A. I imagine so.

Q. Now the ladder, was that the nearest thing to you in the other car? A. Yes.

Q. As you were passing? A. Yes.

Q. How many men in the other car? A. Only one.

Q. Did you see him? A. I did.

Q. Will you describe him? A. That is, I saw him until I came up to him.

Q. Well, you got at least a look at him? A. Yes.

Q. Will you describe to me the man you saw in the car? A. The man I saw in the car had a dark coat on, black, dark fedora hat, was from 35 to 40 years old.

Q. Yes. A. And he had thin features.

Q. Did he give you the appearance of a foreigner or an American? A. No—

Mr. Wilentz: I object to the leading part at this point.

The Court: Yes, you ought not to lead, Mr. Fisher.

Mr. Fisher: Very good, sir.

Q. Will you describe for me what his appearance was as to nationality? A. He didn't look like a foreigner.

Q. Yes. A. No. He looked like a city chap.

Q. Now did you ever see the ladder that you saw in that car at a later date? A. Yes, I saw that ladder again, that is, two sections of it, the following evening about seven o'clock.

Q. Well, two sections is all you saw in the car, isn't it? A. Yes.

Q. And you saw two sections of the ladder the following evening? A. No, there were three sections there.

Q. Oh, you saw three the following evening? A. Yes.

Q. Did you identify any part of the ladder you saw the following evening as the ladder you saw in the car on the evening of March the 1st, 1932? A. I didn't say that there was an X on the ladder, but I said that because they were that length, and on account of the board structure of the thing, and the thickness, the way each one lied on each other, that they were strikingly the ladders that I had seen the night before.

Q. Yes. Now Mr. Lupica, the following morning, which would be March the 2nd, 1932, did you speak to anybody about what you had seen the

night before? A. Why, I was going to school, and I was stopped by a man, Mr. Nelson Wyckoff.

Q. Yes. A. And Mr. Nelson Wyckoff, I was in the custom of taking him to town, and I said, "Hop in," and he said, "No, Ben." He says, "I am not going to town, but did you see any car coming home last night?" I says, "Yes, I saw a car with a ladder in it." So he says, "That is all I want to know," and he jumps in the car and then he—

Q. Now at that time when you were talking to Mr. Wyckoff, did you have any knowledge that there had been a kidnapping at the Lindbergh home? A. No, I did not.

Q. Did you tell a policeman that morning about what you had seen? A. I did.

Q. And what did he say to you? A. Well, he asked me if I had taken the license number and I said—

By Mr. Wilentz:

Q. Just a minute. Who is the policeman? A. Why, I think I would know him if I saw him again.

By Mr. Fisher:

Q. Was it a New Jersey State policeman? A. Absolutely.

Q. In the uniform of a New Jersey State policeman? A. Mr. Wyckoff might know the trooper. He was there with me.

Q. And where was he stationed? Where did you see him? A. He was at the gate house.

Q. The gate house? A. There was a lot of cars there.

Q. So you spoke to this trooper? A. Yes.

Q. At what time in the morning? A. About half past seven.

Q. Of March the 2nd? A. Yes.

Q. Now after your conversation with him, did he take you directly to the Lindbergh house or what did he do about it? A. He said that they would call—

By Mr. Wilentz:

Q. What did he do, please? That is the question. A. Well, before, when I came up to him with Mr. Nels. Wyckoff, Mr. Wyckoff introduced me as the fellow who saw the car with ladders the night before, so he took out a little address book like and he said to me, if I had taken the license—

Q. Just a minute, now. I think Mr. Fisher's question was what he did.

Mr. Fisher: That is right.

By Mr. Fisher:

Q. Well, as a result of your telling the police—just a minute now, Mr. Lupica.

Q. Well, as a result of your telling—just a minute now, Mr. Lupica. I will reframe that.

Q. As a result of your telling the policeman at 7:30, March 2nd— A. Right.

Q. —that you had met a man on that road at from 5:30 to 6:00 o'clock the night before with a ladder in his car, did he take you directly to Colonel Schwarzkopf or any other high man in authority? A. He didn't.

Q. He permitted you to go on to school: is that right? A. He did.

Q. Now, when did they finally get you up to the

Lindbergh house? A. Well, that afternoon.

Q. At what time? A. Well, that afternoon I left Princeton Preparatory as soon as I got through, and when I got—well, I tried to get up the mountain, but all the roads were jammed with cars, and the best I could do was ask a party by the name of Mrs. Hausenbauer—

Q. Mr. Lupica, will you please tell me when was the next time you got back to the Lindbergh house? A. Well, that afternoon.

Q. At what time? A. About four-thirty at the latest.

Q. Now, when you got back there at four-thirty did you see the ladder? A. No, it wasn't there.

Q. Well, why didn't you see it if you know? A. Well, I don't know.

Q. Who did you see at that occasion, what policeman, what police officer? A. There was a house full of them, but there was— Captain Lamb was one of the men there.

Q. Captain Lamb was there? A. I don't remember —

Q. Well, now, was the ladder anywhere in evidence at that time around the place? Could you see it at that time? Did they show it to you at that time? A. No.

Q. So that at four-thirty the next afternoon the ladder wasn't to be found around the place to be shown to you, is that correct?

Mr. Wilentz: He said he didn't see it.

A. I don't know. They didn't show it to me.

Q. They didn't show it to you? A. No.

Q. Well, what did they tell you about it? What did they say about coming back to see it? A. They told me that they wanted me to call at seven o'clock that evening and they would show

me the ladder at that time, so I went down there.

Q. Well, on that occasion did you see the ladder at seven o'clock? A. When I got there, yes.

Q. At about seven o'clock on the night of March the 2nd? A. Yes.

Mr. Fisher: May we have the ladder in, please?

Mr. Wilentz: Will you send for the ladder, please.

Q. Now, did you observe the type of car this man was driving? A. I did.

Q. And will you say to the Court what make of car it was? A. It was a 1929 Dodge.

Q. A 1929 Dodge? A. Yes, sedan.

Q. Now, I ask you, Mr. Lupica, did you do anything to verify the fact that you had recognized the 1929 Dodge sedan at a later date, in company with a State police officer? A. That night in South's Garage in Princeton I picked out a green car of that type.

Q. A Dodge? A. A Dodge, 1929.

Q. Same model? A. Yes.

Q. Now, did you pick out any other cars in company with police officers the same as the one you saw on the road as to manufacture and year model? A. Well, I sat in the back seat, had three or four troopers with me; went from one garage to another.

Q. Did you find any other 1929 Dodges that you were able to pick out as 1929 Dodges? A. Not that night.

Q. What about the next day or subsequent? A. The next day, at Burke's garage.

Q. Now, they took you out and you were able to identify 1929 automobiles? A. It was done this

way: I didn't say it was a 1929 Dodge, but you see, I knew the car if I saw it again; there wasn't any particular mark.

Q. And you picked out several of the same model: is that right? A. Right.

Q. Now, will you say to this jury what the color of the car you saw in the mountain on March 1st at about six o'clock, with one man driving, a ladder in the car, what the color of that car was? A. The color was black or dark blue.

Q. It wasn't by any chance green? A. No, it wasn't.

Q. You are sure it was dark blue or black? A. Yes.

Q. Did you so state on March 2nd, the very next day after you saw the car, that it was a black car? A. Yes, it was put down as a dark car, because I said black or dark.

Q. Now, you made the statement to the State Police, a written statement on March 2nd, 1932? A. Yes.

Q. And did you say in that, that the car had a dark body? A. Yes.

Q. Did you make a statement to the Department of Justice, a written statement at a later date? A. Yes, about eight or nine months before Hauptmann was found.

Q. And did you say in there that it was a dark car? A. Absolutely, I even—if I am not mistaken, I said that he should put down either black or dark blue.

Q. Dark blue. Now, let me ask you this. In the statement given to the New Jersey State Police on March 2nd, 1932, did you state what State license the car you saw bore? A. Yes.

Q. And what State license was it? A. A New Jersey license.

Q. It was not a New York license? A. No, sir.
Q. Is that correct? A. Yes, sir.
Q. It was a New Jersey license? A. That is right.
Q. And at this time are you able to state any letter designation appearing on the license that you saw? A. Yes.
Q. What letter appeared? A. An "L".
Q. And does that designate, of your knowledge, a Mercer County New Jersey car? A. It does.
Q. Now, did you see an article appearing in the Daily Mirror under date of October 3rd in which you were misquoted as to identification of anybody you saw in the car that night?

Mr. Wilentz: Just a minute. I object to the question, if your Honor please, as calling for a conclusion, that is, the question contains a conclusion.

Mr. Fisher: It doesn't call for any conclusion, your Honor. The man knows whether he was misquoted or not, that is not a conclusion, that is a known fact.

Mr. Wilentz: Let him say that, not counsel, that is the point I am trying to make, if your Honor please.

The Court: What difference does it make whether he was or whether he was not?

Mr. Fisher: It will be important, highly important, your Honor, on the cross examination.

Mr. Wilentz: I will withdraw the objection.

Q. Did you see—

The Court: You may proceed, Mr. Fisher.

Q. Did you see an article appearing in the Daily Mirror in which you were misquoted? A. Yes, first one.

Q. And what did you do about that? A. I wrote the City Editor a letter.

Q. Mr. Clark? A. Yes.

Q. Yes? A. And I presented it to him personally.

Q. Well, was there a correction made then in the Mirror story in which a statement that you identified a given person was withdrawn? A. Well, the following day they printed a story, which was all right, so if they wanted to count that a correction, why—

Q. But, in any event the story which they had you identifying a given person was corrected, was changed in their own columns, is that correct? A. The next day, yes.

Q. And that story in which you were quoted as identifying somebody you objected to in writing ? A. Absolutely.

Q. Which you delivered personally to the City Editor of the Daily Mirror? A. Yes.

Q. Is that correct? A. Yes.

Q. Have you at any time said to anybody that you can definitely recognize the defendant Hauptmann as the man you saw in that car? A. No.

Q. Can you identify— A. No, I cannot.

Q. —Bruno Richard Hauptmann as the man you saw in that car that night? A. I cannot.

Q. Now, did you have any conversation with Captain Lamb as to why you weren't being called as a State witness? A. The day that there was a rumor that the State would rest I asked Captain Lamb would they need me and he said that they had enough positive men and—

Q. Some more positive than you, did he tell you? A. Yes.

Mr. Wilentz: No. Now I object to counsel testifying. He gave the answer that Captain Lamb said they had enough.

The Court: I will let the answer stand.

Mr. Fisher: I will let the answer stand and withdraw the further question.

Q. Now, Mr. Lupica, what about a trunk that you saw on the car in the mountain? A. The car I saw didn't have a trunk.

Q. What about spare tires? A. As I recall, one spare tire.

Q. What was your answer as to the spare tires?

Mr. Wilentz: One spare tire.

A. One spare tire.

Q. Now, where was that spare tire? A. In the rear.

Q. About how far ahead of you was this man in the car when he drew to the left and stopped? A. Somewheres around a hundred yards—fifty yards.

Q. From fifty to a hundred yards away? A. No, no.

Q. Closer to fifty? A. Right around fifty yards.

Q. And he was stopped and you were driving toward him? A. Yes.

Q. So that you had an opportunity to observe the car? A. Yes.

Q. From a period when you saw him coming down the road before he stopped until you got past him: is that correct? A. Well, I didn't take much notice, the only thing I got from—

Mr. Wilentz: Just answer the question, please.

Q. You had an opportunity to observe him for at least 50 yards along there, is that right? A. Yes.

Q. The car? A. Yes.

Q. And you now say that the man you saw in that car you can't identify as Hauptmann, that he was driving a dark blue or a black Dodge 1929 sedan, and that that car bore a Mercer County New Jersey license, is that correct? A. Yes, sir.

Mr. Fisher: Take the witness. Just a minute, just one question, please.

Q. Is this part of the ladder that you saw up in the Lindbergh house the day you were taken up there? A. Yes, sir. (Referring to S-211.)

Q. And does it look like part of the ladder that you saw in the car which you have described? A. Well, when I saw it the ladder looked clean.

Q. Newer? A. Yes.

Q. But in structure— A. In structure, yes.

Q. —like the same ladder? A. (Nods head.)

Mr. Fisher: Cross examine.

Cross Examination by Mr. Wilentz:

Q. Now, you saw a car with a man in it, didn't you? A. I did.

Q. There was no gang in it, was there? A. No, sir.

Q. No gang? A. No.

Q. Just one man? A. Absolutely.

Q. All alone? A. Yes.

Q. With a ladder? A. Yes.

Q. And you saw a Dodge there, didn't you? A. Yes.

Q. It was a dark Dodge, wasn't it? A. Black or dark blue.

Q. You said dark when you first made a statement, didn't you? A. Well, they put it down as such.

Q. Well, all right, they put it down. At that time when you spoke to them they put it down as a dark Dodge, didn't they? A. Yes, but I said—

Q. At that time they didn't know anything about Hauptmann, did they? A. No.

Q. So they weren't keeping green out on account of Hauptmann, were they? A. Unless—

Mr. Fisher: Well, that statement certainly calls for a conclusion, your Honor.

Mr. Wilentz: Maybe it does; I will withdraw it.

Q. But at any rate at that time it was a dark Dodge, wasn't it? A. Yes.

Q. It was a 1929 Dodge, wasn't it? A. Yes.

Q. Have you seen the Dodge of Hauptmann's? A. I have had a glance at it.

Q. Did you see that it was a Dodge? A. Well, it has been put in the papers also.

Q. Did you observe that it was a 1929 Dodge?

A. No, that's not a 1929 Dodge, because the 1929 Dodge, the nickel on the radiator is closer.

Q. Closer than what? A. Well, the space, the comb space between the edges of the radiator is narrow.

Q. But there was one man? A. Yes.

Q. One man? A. Yes.

Q. And there was one ladder? A. Yes.

Q. And all you saw of the ladder was while you were in an automobile, passing it? A. Right.

Q. A fleeting glance at the ladder? A. Right.

Q. Of course, you didn't see the ladder until you were passing? A. Until I came up to it.

Q. Yes, and then just for the moment that you passed? A. Right.

Q. Then you saw a ladder? A. Yes.

Q. Now, Mr. Fisher has asked you about the statement that you gave to a newspaper? A. That's right.

Q. You took money for the statement, didn't you? A. I got money after, about two weeks after I saw you.

Q. But you gave them a statement and were paid for it, isn't that so? A. I was—

Q. Please answer the question. Didn't you get paid for the statement you gave them? A. Now, look—

Q. Will you do me the kindness, Mr. Lupica? A. Yes.

Q. You are a Princeton student? A. Yes.

Q. And it is a simple question. A. All right.

Q. Did you get paid for the statement you gave the Daily Mirror? A. I got paid for those two articles, yes.

Q. All right, sir, yes, sir.

Mr. Fisher: Find out how much.

A. But it wasn't my statement.

Mr. Wilentz: I will examine this witness if you don't mind.

Q. Then there appeared an article in the Daily Mirror which you talked about and in which you said by Ben Lupica? A. That's right.

Q. And the very first sentence was, was it not, "I saw Bruno Richard Hauptmann for an instant in the courtroom—" that's the second one. Let me give you the first one first, "By Ben Lupica," that's the one Mr. Fisher spoke about, October 3rd: "Bruno Richard Hauptmann is the same man that I saw at the foot of the lane leading to the Lindbergh home only a few hours before poor little baby Lindbergh was killed and murdered," that's what appeared in that article? A. That's right.

Q. "He was driving a black Dodge Sedan, had a ladder inside the car?" A. Right.

Q. Yes, that morning it was I sent for you? A. Right.

Q. And you came to the office of the Attorney General? A. Yes.

Q. And do you remember the Attorney General saying what do you mean by saying you identified Hauptmann and you couldn't tell the police you remembered positively? A. Yes.

Q. And didn't the Attorney General warn you not to give any further statements to the newspapers? A. Right.

Q. And that all we wanted was the truth? A. Yes.

Mr. Fisher: I object to the question. I don't see what the conversation with the Attorney General has to do with it. It is

not competent testimony here. It may be some fatherly advice from the Attorney General.

Mr. Wilentz: Maybe fatherly advice from the defense might have helped just as much.

Mr. Fisher: Probably it would have helped more.

By Mr. Wilentz:

Q. Now it is with reference to the resemblance. I don't know whether the question is answered. Do you mind if I proceed?

Mr. Fisher: No.

Q. All right. Weren't you then told with reference to the article regarding which Mr. Fisher spoke to you by the Attorney General in the office? A. That is right.

Q. That if your statement was merely that the man you saw that night resembled Hauptmann that that is all we would stand for your saying? A. Right.

Q. Yes. And you said then, did you not, to the Attorney General in the presence of Prosecutor Hauck and five or six other people that the man you saw in the court room in the Bronx, Hauptmann, that the man you saw on the night of March the 1st resembled Hauptmann? A. That Mr. Hauptmann has a resemblance to him.

Q. Yes. Didn't you say so? A. (No answer.)

Q. And you have always said that he resembled Hauptmann, haven't you? A. Yes, it is the truth.

Q. And you say so today, don't you, Ben? A. Yes.

Q. You want to tell the truth, don't you? A. Absolutely.

Q. Now when you went to see Hauptmann in the Bronx, at the time you made the statement that the man you saw with the ladder, in a car, all alone, looked like Hauptmann you made it for a newspaper first, didn't you? A. Well, as best as I could under the circumstances, coming up to him, it was a resemblance.

Q. Yes. But what I mean is when you made the statement about the resemblance— A. Yes.

Q. You made it first to the newspapers when you wanted to correct their first story. A. Right.

Q. Yes. No policeman told you to say he resembled him, did he? A. No.

Q. No Captain Lamb or anybody told you to say he resembled him? A. No.

Q. Of your own free will and according to your conscience and to the best of your recollection? A. That is right.

Q. You told everybody in the world that the man that you saw on March the 1st in an automobile with a ladder in it looked like Hauptmann, isn't that right? A. He has a resemblance, yes.

Q. And you came before the Hunterdon County Grand Jury and you so testified? A. Yes.

Q. Isn't that so? A. Yes.

Q. And that is your testimony today? A. Yes.

Mr. Wilentz: I am very much obliged to you, sir.

Re-Direct Examination by Mr. Fisher:

Q. Now, Mr. Lupica, Mr. Wilentz asked you if you had just glanced at this man? A. Yes.

Q. You had just about the same kind of glance that the witness Hochmuth had, didn't you?

Mr. Wilentz: I object to it. Just a minute now, we will argue that in summations, I don't think at this time it is proper.

Mr. Fisher: All right, withdrawn.

Q. Mr. Wilentz said to you the State didn't stand for your saying so and so. The State in this case didn't stand for you saying anything on the witness stand, did they, Mr. Lupica? They didn't put you on there under their subpoena?

Mr. Wilentz: Now just a minute. The Prosecutor and the Attorney General have the right to determine what witnesses to call.

The Court: Of course they have.

Mr. Fisher: I don't dispute that, sir. I don't dispute it.

Mr. Wilentz: And the defense evidently felt that we had been derelict in not calling him, and so far as the Attorney General is concerned, that complaint can go to the Governor.

Mr. Fisher: Yes.

Mr. Wilentz: But this witness is here and he has testified and that is the only thing that is important in the case.

The Court: Well now, perhaps I better rule on this objection, if I may. Just repeat the question.

(The reporter repeats question as follows:

"Q. Mr. Wilentz said to you the State didn't stand for your saying so and so. The State in this case didn't stand for you saying anything on that witness stand, did they, Mr. Lupica? They didn't put you on there under their subpoena?")

The Court: I sustain the objection.

Q. Now, Mr. Lupica, you said to me, you said to the press that the man whom you saw in the Bronx is the man you say now bore some resemblance to Hauptmann, that is correct, isn't it? A. Yes.

Q. Is that resemblance such as would permit you in good conscience and in fairness to identify this man, Bruno Richard Hauptmann, as the man you saw on the hill?

Mr. Wilentz: Just a minute now. This is his witness and he has already stated many times—we don't attempt to prove that he positively identifies him. He has been asked whether there was a resemblance and he said yes and he has already testified for Mr. Fisher that he can't say positively that that is the man now that has been in the case and I don't think this re-direct can doctor it up.

Mr. Fisher: That isn't the fact at all, your Honor. He doesn't say positively he

can identify this man as the man, and the Attorney General would insert the word "positively", and I don't want it inserted, sir. He says that he can't identify this man as that man.

Mr. Wilentz: Well, he so identified him.

The Court: What is the present question?

Mr. Fisher: Will you repeat the question?

(The pending question was read as follows:

"Question: Is that resemblance such as would permit you in good conscience and in fairness to identify this man, Bruno Richard Hauptmann, as the man you saw on the hill?")

Q. Did you identify this man as the man you saw? Answer the question. A. No.

Mr. Fisher: That is all, sir.

Mr. Wilentz: That is all, Mr. Lupica.

By Mr. Wilentz:

Q. Where do you live in New York? You forgot to give us your adress. A. 1150 Park Avenue.

Q. In case we want to get in touch with you you will be at 1150 Park Avenue, New York? A. I will still be here.

Mr. Wilentz: That is all.

Mr. Fisher: We will see that Mr. Lupica stays around until the case is finished.

Mr. Wilentz: No, he is our witness, if you please.

Mr. Fisher: He was our witness a minute ago, I had to call him.

Mr. Wilentz: That apparently explains why counsel did call him, he had to call him.

Mr. Fisher: To get this jury all the evidence I had to do it.

The Court: Now, now gentlemen, let us get down to business.

Mr. Reilly: May we have a five minute recess?

The Court: Yes. (At 11:26 a recess was taken.)

(11:36 a. m.)

(After a short recess the jury was polled and all jurors answered present.)

Mr. Reilly: Mr. Kloppenburg.

HANS KLOPPENBURG, sworn as a witness in behalf of Defendant:

Direct Examination by Mr. Reilly:

Q. Where do you live? A. 342 East 156th Street, Bronx, New York.

Q. How long have you been in the United States? A. Since 1929, October.

Q. What is your business? A. I am a carpenter and cabinet maker, but I work as packer now.

Q. How long have you known the defendant Hauptmann? A. I know him in the Winter months 1929, during 1930.

Q. And where did you meet him? A. At Langenbacher's cabinetmaker shop.

Q. After you met him were you in the habit of visiting his home? A. Yes.

Q. Did you come from any part of Germany near the part he came from? A. No, sir.

Q. What part of Germany do you come from? A. I come from Schleswig-Holstein, that is in northern part, near Hamburg.

Q. By the way, when you write Schleswig-Holstein, you put a hyphen between the two, don't you? A. Yes.

Q. Now do you recall being at the home of Mr. Hauptmann April 2nd, 1932? A. Yes, I was there.

Q. What night of the week was that? A. Saturday night.

Q. Do you play any musical instrument? A. Yes.

Q. What? A. I play mandolin and guitar.

Q. And what does Mr. Hauptmann play? A. He plays mandolin.

Q. Now what had been your custom before April 2nd, 1932, if there had been any custom, in so far as you and Mr. Hauptmann playing music together was concerned? A. We came the first Saturday each month together and played music.

Q. In his house? A. In his house.

Q. Now I want you to describe to the jury the meeting of April 2nd, 1932, what time you arrived and what you did without any leading ques-

tions from me right up to the time you left. A. I came up to his house about seven o'clock, maybe little bit before, maybe half past six, I don't know exactly. Then we played some music, played cards, had some coffee and cake and between eleven and twelve o'clock he drove me up to the White Plains Avenue.

Q. And he was in the house then the entire evening up to the time— A. Yes.

Q. —he drove you to the subway station, is that correct? A. Yes, he was.

Q. Who else was in the house besides Mr. Hauptmann and yourself? A. I don't know. Maybe it was somebody for a few minutes, but not for the whole night I didn't see anybody.

Q. Was Mrs. Hauptmann there? A. Mrs. Hauptmann was there too, sure.

Q. Do you recall a party given at Mr. Hauptmann's house to Isidor Fisch? A. Oh, yes; I saw him plenty of times over there.

Q. How many times did you see Fisch at Mr. Hauptmann's house? A. Oh, I can't say.

Q. Before he sailed for Europe? A. I can't say that, maybe ten, twenty times, maybe more.

Q. When did you first meet Isidor Fisch? A. I saw him first 1930,—in July or August, 1932.

Q. I show you defense exhibit 39 for Identification and ask you whose picture that is. A. I don't know.

Q. I show you this picture and ask you—

Mr. Wilentz: What was the last one you referred to, Mr. Reilly?

Mr. Reilly: 37.

Mr. Wilentz: 37?

Mr. Reilly: No,—39.

Mr. Wilentz: 39?

Q. —D-33, I ask you to look at that and see if you recognize anybody on there. A. It looks like Henry Uhlig, and over there Isidor Fisch.

Mr. Reilly: I offer it in evidence.

Mr. Wilentz: No objection.

The Court: It will be admitted.

The Reporter: Exhibit D-45.

(D-33 for Identification, photograph, received in evidence and marked Defendant's Exhibit D-45.)

Q. I show you defense D-5 for Identification and ask you if you recognize whose picture that is? A. No, I don't know this picture.

Mr. Peacock: What number is that?

Mr. Reilly: D-5.

Q. Looking at D-45 in evidence, indicate, please, how the man Fisch is dressed on there and how Henry Uhlig is dressed so that we may distinguish between the two men. A. Henry Uhlig had a sweater and Fisch has a white collar and a dark suit.

Q. Do you recall now about when it was you first met Fisch? A. Yes, that was 1932, in July or August.

Q. Where did you meet him? A. Hunters Island I saw him first time.

Q. Were you in the habit of going to Hunters Island? A. Oh, yes, I was there very often.

Q. How often would you go there in a month? A. In the summer time we were Saturdays and Sundays there, maybe.

Q. Did you engage in these sports, swimming— A. Yes, I was swimming.

Q. —that has been testified to here? A. What?

Q. Swimming. What else? A. Yes.

Q. What else would you do there? A. We played soccer over there and did some exercise sometimes, we put eel chops in the water, catch eels, we did everything, cooking and—

Q. Was that a custom they had in Germany? A. Yes.

Q. Going to the shore on holidays, Saturdays and Sundays? A. Yes, I was out every Saturday and Sunday in Germany, too.

Q. Most of the people in your crowd were Germans? A. Yes.

Q. Up at Hunters Island? A. Yes, that's right.

Q. Now, on the evening of this party for Fisch, do you remember the date? A. No, I don't; I don't remember the date.

Q. Do you remember how long it was before Fisch sailed for Europe? A. Yes, it was on Saturday before he sails.

Q. Do you know when he sailed? A. I think it was on Wednesday or Thursday after this Saturday.

Q. Was it the first Saturday or second Saturday or third Saturday, if you can recall, in December, 1933, this party? A. What do you mean by that?

Q. Was the party the first Saturday or the second Saturday or the third Saturday or when was

it, in December, if you can remember? A. I don't remember the date any more.

Q. You don't remember the date when he sailed? A. Maybe it was the first or the second, because he was over Christmas in Europe already.

Q. Fisch was in Europe for Christmas, you say? A. Yes, I think.

Q. Now, do you remember who was in Hauptmann's house the evening of the farewell party to Fisch? A. There was Mrs. Miller, Mrs. Hauptmann, Mr. Hauptmann, and there was Hauptmann's friends, Elizabeth, a young German couple.

Q. What is their name, do you know? A. Hein, I guess, something like that.

Q. Yes. A. And Mr. Schuessler.

Q. Who is he? A. He lives downstairs.

Q. Yes. A. In the same house where Hauptmann lives.

Q. Yes. A. And there was one woman named by Louise,—I don't know her second name.

Q. Would you know her second name if you heard it? Wallenberg? A. Her husband is a barber, I know that, and her husband came later too; his first name is Otto.

Q. And was there any male relative of Mrs. Hauptmann's there that you recall? A. Mrs. Muller.

Q. Male relative? A. No.

Q. Do you know Ernest Schoeffler? A. Yes, I know him.

Q. That is Mrs. Hauptmann's brother, isn't it? A. That's right.

Q. He was there too, wasn't he? A. I don't know.

Q. You don't remember? A. I don't remember if he was.

Mr. Wilentz: He says he don't know.

Q. You don't know? A. Maybe he was there.

Q. What time did you get there? A. I got there about between six and seven o'clock.

Q. Did you see Isidor Fisch come in? A. Yes, I saw him when he came in.

Q. And where did you see him? A. I saw him when he came in the door, on top of the stairway is a door when he came in there.

Q. That leads to what room? A. Goes in the hall.

Q. Did you see him in conversation with Mr. Hauptmann? A. Yes, he was talking right away to Mr. Hauptmann.

Q. Did you notice whether or not he had any packages or bundles with him? A. Yes, he carried a package in his arm.

Q. In his arm? A. Yes.

Q. Now, will you describe that package to the jury and its size, width, if you can? A. It was about, I would say five to six inches high, and seven, eight wide and the length was about 14 inches.

Q. And how did he carry it? A. He carried that under his arm like that (indicating with left arm).

Q. Now, when was the last time you saw Fisch with that package in Hauptmann's house? A. The last time both went together through the hall in the kitchen.

Q. I see. Am I correct then in saying, without leading you, that you saw Fisch as you testified at the entrance of a room at the head of the stairs upon his arrival, is that correct? A. Yes.

Q. And that he had under his arm the package that you described, is that correct? A. Yes, that is correct.

Q. And that you saw him in conversation with Hauptmann, is that correct? A. Yes.

Q. And that you saw Hauptmann and Fisch then go to some other part of the house, is that correct? A. In the kitchen.

Q. In the kitchen? A. In the kitchen, that is right.

Q. Now, when Fisch came back and joined the group, did he come back and join the room gathering then? A. Yes, he came later.

Q. Did he have the package with him? A. No, sir.

Mr. Reilly: If your Honor will pardon me just a minute.—

You may take the witness, General.

Cross Examination by Mr. Wilentz:

Q. You are the gentleman who took the trip to California with Mr. and Mrs. Hauptmann, were you not? A. Yes, I was, right.

Q. And you and the Hauptmanns have been very friendly, haven't you? A. Yes.

Q. You are a friend of the family? A. Yes, to Mr. and Mrs. Hauptmann.

Q. Yes. I say you are a friend of the family? A. That is right.

Q. You didn't know Mr. Hauptmann in Germany, did you? A. No. I did not know him.

Q. You knew nothing about his life in Germany, did you? A. Nothing.

Q. And you became friendly with him in this country through meeting him: is that right? A. Yes, right after we worked together.

Q. Now, you met Hauptmann at Hunters Island too? A. Sure, we were there together.

Q. When did you meet Hauptmann at Hunters

Island? A. Sometimes we came together over there.

Q. When did you meet him the first time? A. In Langenbacher's cabinetmaker shop in 72nd Street, New York.

Q. When, Mr. Kloppenburg? A. When? It was Winter months from 1929 to 1930.

Q. And you used to go out to Hunters Island with him, didn't you? A. That is right.

Q. And some time in July or August, 1932, you met Isidor Fisch? A. Yes, I saw him there for the first time.

Q. That was the first time you ever saw him? A. Isidor Fisch, right.

Q. Who was with him? A. He was with Henckles.

Q. With the Henckles? A. Yes.

Q. He lived with the Henckles, didn't he? A. Yes. I found out later he lived in the same house with them.

Q. As the Henckles, yes. And that day that you met Fisch,—No, withdraw that. Who introduced you to Fisch? A. Well, there is no introducing over there, you know; the whole bunch—

Q. Everybody is very friendly? A. Yes.

Q. Who was with you that day? A. Which day?

Q. The day that you met Fisch. A. Well, I can't remember that.

Q. Well, was Hauptmann with you, I mean? A. I think the whole bunch was there.

Q. Yes. And is that the day that Hauptmann met him? A. Well, I don't know.

Q. Well, Hauptmann didn't say anything about meeting him before that, did he? A. Well, I don't remember.

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

Q. And you have seen—you saw Mr. Fisch on

many occasions in the house there, didn't you? A. On what occasions do you mean?

Q. On many occasions. A. I saw him in the evenings, you know.

Q. Many times in Hauptmann's home? A. That is right.

Q. They were very close friends, weren't they? A. Yes, they were.

Q. Now, when you would go to Hunters Island on Saturdays and Sundays, would you go out there with Hauptmann or would you meet him there? A. Well, that's—sometimes he came to mein house and we went together, sometimse I met him at the Pelham Bay subway station, sometimes we met on the Island.

Q. Yes; you and he. A. Yes, the whole crowd, maybe.

Q. The whole crowd? Most of the time would he have his wife with him? A. Sometimes she was with him, sometimes she was not.

Q. Most of the times he was without his wife, wasn't he? A. Well, I—I can't say that.

Q. Well, will you say that most of the times his wife was with him or she wasn't? Which would you say? A. I wouldn't say yes, not yes or not no.

Q. I see. Now, you saw Mr. Fisch come up to that house with a package under his arm on the night of the party. A. That's right.

Q. And the last time you saw the package was when he and Hauptmann walked into the kitchen? A. That's right.

Q. Now on that night after the party, what time did you go home? A. I guess I slept over there, as far as I know, downstairs by Mr. Schusler.

Q. Did Fisch sleep there that night? A. No.

Q. What time did he leave? A. I am pretty sure it was after one o'clock.

Q. Well, did you see him leave—you didn't see him go out, did you? A. Well, I don't know, I don't remember exactly.

Q. You don't remember? A. I guess I was—

Q. Just a minute. You don't remember seeing him go out, do you? A. I don't remember it, no. I guess Hauptmann drove him to the station, I know that, in his car.

Q. But you didn't see them go out, did you? A. Well, I wouldn't say not no and not yes.

Q. Well, you don't remember seeing him anyway? A. Well, I don't know. I guess I saw them when they walked together out and Hauptmann took him to the station.

Q. Well now, after all, Mr. Kloppenburg, now you are testifying under oath and all I want you to do is tell me what you remember. You said you don't remember seeing him go out? A. I don't want to swear that I saw him.

Q. Well, I don't want you to swear you did, either. A. But it was possible I saw him.

Q. Yes, it was possible? A. Yes.

Q. And it was possible that you did see him? A. Yes.

Q. And you don't know whether you did or you didn't: that is correct, isn't it? A. Because I went downstairs.

Q. Will you please answer the question? A. Oh, sure.

Q. You don't know whether you did and you don't know whether you didn't; isn't that right? A. That is right.

Q. No question about that? A. No.

Q. You don't know whether the package that you saw Fisch come in with, you don't know whether or not he took it back with him, do you?

A. I am sure that he left it in the kitchen and he didn't take it; I don't think so.

Q. Well, you didn't see him go home, did you? A. No. —Well, I maybe—

Q. So you don't know what he took home with him, do you? A. Well, I don't know.

Q. Well, that is what I want you to say then if you don't know. A. No, I think I saw him.

Q. Now, let's—

Mr. Reilly: Let him finish his answer.

Mr. Wilentz: I am not stopping him.

Q. You remember when Mr. Hauptmann was arrested? A. Yes, I remember.

Q. He was still a good friend of yours? A. Yes, he was.

Q. He was arrested some time in September, 19th or 20th, or something like that, 1934? A. Yes, I think it was around that time; I don't remember that date.

Q. Do you remember the month? A. I think it was in September.

Q. You are not sure, though? A. No.

Q. Do you remember the date? A. No, sir; I don't.

Q. You don't remember the date? A. The date I can't tell you exactly.

Q. That is all right. And anyway, some time later you were taken to the—You were invited to come to The Bronx District Attorney's Office, were you not? A. Yes, I was first in the station house downtown, first day.

Q. Well, do you remember the date you were there? A. No.

Q. Then you came to the Bronx District At-

torney's Office; do you remember the date you were there? A. No, sir.

Q. You don't remember any of those dates in September and October, 1934, do you? A. I remember the first night, when they took me to The Bronx courthouse it was on a Monday.

Q. Do you remember the date? A. No.

Q. So you don't remember the date you met Fisch; you don't remember the date of the party; you don't remember the date you were down to the police station; you don't remember the date that Hauptmann was arrested, and you don't remember the date that you were in The Bronx County Courthouse: is that right?

Mr. Reilly: I object to the form of the question. I think that should be asked individually, because if he doesn't remember one of those and says no, he don't, it puts him in as not remembering them all.

The Court: Well, hasn't the witness—Doesn't the record speak in respect to what he remembers and what he doesn't remember?

Mr. Reilly: Yes, quite true. I think the form is objectionable for that reason.

The Court: I think it is.

By Mr. Wilentz:

Q. Well, let's get to the date you were in the District Attorney's office. Have you answered us whether or not you remember that date? A. I don't remember, not exactly, the date.

Q. Do you remember any dates in which you

were questioned by the police or the Bronx District Attorney in connection with the Hauptmann case? A. I remember the days, some day it took me from my work on Friday and kept me the whole Saturday in The Bronx Courthouse.

Q. Well, that Saturday was weeks after he was arrested, wasn't it? A. I think so.

Q. Several weeks afterwards? A. Not several weeks.

Q. Well, how many weeks would you say? A. Either the first or the second week afterwards.

Q. Now do you remember, they were asking you about the month of March, 1932, and they were asking you about the month of April, 1932. A. Yes.

Q. And you were one of Mr. Hauptmann's closest friends? A. That is right.

Q. And you knew, did you not, that the newspapers had carried stories that Dr. Condon had paid a man $50,000 on the night of April the 2nd, 1932? A. Yes.

Q. And you knew then too, did you not, that the charge was made by the State of New Jersey and the State of New York, when you were in the Bronx office, you knew that the charge was made that Hauptmann was the man that got the $50,000 from Condon—you knew that, didn't you? A. What do you mean?

Q. I will withdraw the question. When you were in the Bronx District Attorney's office in October, 1934, a few weeks after Hauptmann's arrest, you knew then what the charge against Hauptmann was, didn't you? A. Yes.

Q. You knew that he was charged, among other things, with being the man who received $50,000 from Dr. Condon? A. Yes.

Q. Then you knew that the date that the State of New York claimed that he got the money was

the date, was April the 2nd, 1932? A. That is right.

Q. And you knew that when you went to the office of the Bronx District Attorney, didn't you? A. Yes.

Q. So you were there—you knew what you were there for? A. Sure I was, I knew it.

Q. Nobody was forcing you to say anything except the truth, were they? A. That's right.

Q. And you made your statement of your own free will? A. Yes.

Q. And you were asked about the month of March and the month of April, 1932, weren't you? A. Uh-huh.

Q. And do you remember this question being asked you, referring to Hauptmann: "Do you remember whether you saw him in the month of March, 1932?" And you answered: "I can't remember exactly days, but I saw him that month?" A. That's right.

Q. Do you remember him? A. That's right.

Q. Then you were asked: "Can you tell me one day in the month of April, 1932, when you saw him, any one day in particular?" "A. I don't know. That is too long ago." Is that correct? A. I don't remember I said.

Q. Yes. You said "That's too long ago?" A. That's right.

Q. April, 1932? A. That's right.

Q. So in October, 1934, when you were making your statement of your own free will, you couldn't remember whether or not you had seen him on the night of April the 2nd, 1932? A. That's right.

Q. What caused you to change your mind and come to this court and swear differently from the statement you gave to the police?

Mr. Pope: Objected to. There is no evi-

dence that the witness has changed his mind, or that he is coming here and swearing differently.

The Court: I will overrule the objection. I think there is.

Mr. Pope: I think it would be proper to ask the witness if he has since remembered the date, rather than to ask him what caused him to change his mind.

Mr. Wilentz: That is his answer; that isn't a question.

Mr. Pope: May we have an exception?

The Court: Yes.

(Exception allowed, and the same is signed and sealed accordingly.

THOMAS W. TRENCHARD (L. S.)
Judge.)

Q. Did anybody tell you to come here and say that since that time you have remembered April the 2nd? A. No, nobody told me anything.
Q. But that is your explanation, isn't it? A. Yes, I tell you why I remember.
Q. Well, you knew in October—

Mr. Reilly: Let him state.

Mr. Pope: Let him answer.

Mr. Wilentz: Just a minute. As long

as both counsel have asked for it I must accede. All right. Proceed.

A. On April 2nd, 1932, I was in Hauptmann's home. The first thing I remember we had a whole lot joke about the first of April and the second reason is that we had the first Saturday of each month our week ends with music.

Q. Do you know— A. The third reason is I found out from—

Q. No. I don't want what you found out from somebody please. That is different.

Mr. Reilly: If that is in his mind and that establishes the reason—

The Witness: That is why I am sure I was there.

Mr. Reilly: May we have your Honor rule on it?

Mr. Wilentz: What he found out from somebody else I submit is—

Mr. Reilly: If he checks something—

The Court: He ought not to state in detail what he found out, but I suppose he is entitled on re-examination by Mr. Reilly to give in limited detail any fact which he found out which tends to impress that story upon his mind.

Mr. Wilentz: Well, when Mr. Reilly gets him.

The Court: I think that is for Mr. Reilly.

Q. But none of these things that you now remember, none of them did you remember when you were talking to the police in September or to the District Attorney in October, 1934. A. Yes, I remembered them, but I was not sure.

Q. You were not sure. At that time you weren't sure? A. No.

Q. Now isn't it a fact that this story about Saturday night parties— A. Which Saturday you mean?

Q. Well, the first Saturday of the month. A. Yes, that's right.

Q. You had parties every Saturday. A. Yes.

Q. Isn't that the reason Mr. Hauptmann picked out the first Saturday night to get the money from Condon so he would have you to establish the alibi. A. That's a very funny question.

Mr. Pope: We object to that question, of course. We respectfully ask that the Attorney General be admonished for asking a question of that kind in the presence of the jury. And we ask that the jury be instructed to disregard it. That is, perhaps, the most flagrant kind of question that has been asked throughout this entire trial.

Mr. Wilentz: I don't think it compares with the question to Miss Betty Gow, "Did you drop that thumb guard?"

(Question repeated by the reporter as follows: "Isn't that the reason Mr. Hauptmann picked out the first Saturday night to get the money from Condon so he would have you to establish the alibi?")

The Court: I think that is objectionable

and I will ask the jury to ignore the question and exclude it from their minds.

Mr. Wilentz: All right, if your Honor says so.

By Mr. Wilentz:

Q. Do you remember you had a little April fool joke or something, is that one of the things? A. Yes, that is the first reason.

Q. That is the first reason? A. Yes.

Q. Did you remember that in October, 1934? A. I didn't think on that.

Q. You didn't think of it? When did you first think of that? A. Well, I think it was between—in December. I was always thinking on this date.

Q. In December? A. Yah.

Q. When you found out in December that you had made a mistake in your answers to the District Attorney and to the police— A. What was it?

Mr. Pope: Wait a minute. We object to that. He never said he made a mistake in his evidence to the District Attorney or to the State police. He says that he did not at that time remember these particular dates that he has since been able to recall other things that happened, and that he now remembers them. That was no mistake on his part.

The Court: Well, there appears to be disclosed a different state of testimony given to the District Attorney than that given here, doesn't there?

Mr. Pope: No.

The Court: I think it is. The question may be answered.

Mr. Pope: It is the form of question that we object to, the insinuation in the question.

Mr. Wilentz: I will reframe it.

Mr. Pope: That the witness made a mistake.

The Court: The Attorney General is going to reframe the question.

By Mr. Wilentz:

Q. Before the District Attorney in the Bronx you were asked this question and gave this answer, did you not: "Can you tell me one day in the month of April, 1932, when you saw him, any one day in particular?" And wasn't your answer: "I don't know, that is too long ago." That is correct, isn't it? A. Yes.

Q. Now then, later on you found out you were mistaken, that you could remember some day in April—

Mr. Pope: That is what we object to: later on you found out that you were mistaken—when there is no mistake.

The Witness: There is no mistake.

Mr. Pope: The witness didn't remem-

ber at that time. Later he did remember. That is no mistake.

Mr. Wilentz: I will withdraw it, if your Honor has no objection. I will try to cure it.

Q. Later you remembered that that wasn't accurate, isn't that so? A. I said always maybe I was there, maybe I wasn't. I can't—

Q. Yes. But in December you found out from some things, about the April Fool joke and other things— A. Yes.

Q. —that you do remember? A. Yes; I was there.

Q. Did you go back to the District Attorney of Bronx County, representing the People of the State of New York, or to the police, and say to them, "Gentlemen, I want to correct that testimony; I remember now that I did see it"?

Mr. Pope: We object to it. We object to the question. There was no reason why he should go back to the District Attorney or to the People of the State of New York; and certainly there was no testimony given to the District Attorney, it was merely a statement; and thirdly there was nothing to correct. He may be asked if he went back to the District Attorney, so far as we are concerned, and told him a different story. But there seems to be no reason why he should go back to the District Attorney.

The Court: The objection is overruled. He may answer the question.

By Mr. Wilentz:

Q. You may answer the question. A. What was it?

Q. Did you go back to the District Attorney to tell him that now you remembered? A. No, sir; no, sir; I did not.

Q. You did not? A. No, sir.

Q. Did you go back to the police to tell them? A. No, sir.

Q. You did not? A. No.

Q. Did you talk to the police or the District Attorney after October 1934 at any time? A. Well, I don't remember the dates.

Q. Well, after the date you were in The Bronx? A. I was couple times there.

Q. Afterwards, weren't you? A. When?

Q. The day that you made this statement which I have listed here as being October 8th, 1934: does that refresh your recollection, early in October, before the trial in The Bronx? A. I don't remember, I guess it was before the trial.

Q. Yes? A. Uh-huh.

Q. After you answered Assistant District Attorney Breslin, did you see the police or the District Attorney again after that, any time? A. No.

Q. You did not? A. No.

Q. You never went back to tell them? A. No.

Q. About what you had since learned? A. No.

Mr. Wilentz: That is all.

By the Court:

Q. You testify that you saw Mr. Fisch come to that apartment? A. Yes.

Q. And bring a package with him. Now, can you tell when that was? A. It was Saturday before he went to Germany.

Q. But can you come anywhere near telling

what date it was? A. Well, the date I don't know, I can't say.

Q. You cannot tell? A. No.

Q. Can you tell what month it was? A. It was in December.

Q. In December? A. Yes.

Q. And what year? A. 1934.

Q. 1934? A. No, 1933, I made a mistake.

Q. 1933? A. '33.

The Court: That is all, sir.

Mr. Wilentz: Oh, I have another question or two that I overlooked.

By Mr. Wilentz:

Q. You know Mr. Fritz Hahn, do you not? A. Yes, I know him.

Q. Yes, he is a friend of yours, isn't he? A. I wouldn't call him a friend.

Q. Well, you used to eat in his restaurant? A. Yes, I was a customer.

Q. Customer; and Hauptmann was a customer too? A. Yes, and he came there sometimes too.

Q. And Mrs. Hauptmann too? A. Yes, sometimes.

Q. In March and April 1932, they came to the restaurant, didn't they? A. Well, I don't know; I think so, they were there too.

Q. You think they were, and you were there in March and April 1932 in Hahn's restaurant? A. Yes, sir; 1932, that is right.

Q. Do you remember coming into that restaurant one day and Mr. Hahn saying to you, "Kloppenburg, where is Richard?" meaning Hauptmann. Do you remember him asking you that? A. No.

Mr. Reilly: I object to it as not in the presence of the defendant. I don't care what he asked Kloppenburg, the question—

Mr. Wilentz: This is for the purpose of attacking the witness's credibility.

Mr. Reilly: I say it is dangerous; it is improper. He can ask him any questions, any conversations between this witness and Hahn that we are able to controvert. We were not there; it is not binding upon us. He could say to this witness: "Where is Bruno? Did he stab his mother in law?" or something like that, and it would pass into the jury's mind, and the thing never happened; it is not competent. I don't think we should be bound by it.

Mr. Wilentz: I am perfectly willing—

The Court: Was anything said on this subject in the direct examination?

Mr. Reilly: No.

Mr. Wilentz: No, if your Honor please; there wouldn't be, for the purpose of attacking the witness's credibility, naturally.

The Court: No. And now you want to cross examine him in this respect in order to attack his credibility?

Mr. Wilentz: Yes, if your Honor please.

The Court: And your question is what?

Mr. Wilentz: Whether or not Mr. Hahn didn't ask him some time in March or April, 1932, "Where is Richard?" meaning the defendant Hauptmann.

Mr. Reilly: That would not be binding upon us, no matter what the answer was.

The Court: I will sustain the objection.

Mr. Wilentz: That, of course, eliminates the next question.

By Mr. Reilly:

Q. Now you were giving some reasons as to why it was that you remembered April the 2nd. A. Yes.

Q. April the 2nd, 1932. Will you tell the jury now how it is that you remember that night? A. The first reason was we had every Saturday, first Saturday in each month, music night. The second reason was that April joke we had a whole lot of fun about that night. Mrs. Hauptmann wanted to send her husband to a neighbor to bring a tools box with her; and the third reason was that Mrs. Hauptmann wanted to go the next day to a niece; she was worrying about her—

Mr. Wilentz: No, you see, if your Honor please, this I object to, what the lady was worrying about.

Q. Never mind what she was worrying about.

Mr. Wilentz: And what she wanted to do.

Mr. Reilly: I will consent that that go out.

A. All right.

Q. She wanted to go to her niece? A. To her niece.

Q. All right. A. On University Avenue, because—

Q. Never mind, you can't give the reason why she wanted to go. She wanted to go to her niece. A. Yes, she wanted to go to her niece.

Q. Did she speak about it? Yes or no. Did she speak about it? A. She wanted to go, yes.

Q. Yes. All right. A. Yes, she was talking about it.

Q. And was it those three things that recalled that date to your mind? A. That's right; that's right.

Mr. Reilly: That is all.

Re-Cross Examination by Mr. Wilentz:

Q. Just a minute, sir. Now do you know this gentleman (indicating)? A. Yes, I saw him in Bronx Court.

Mr. Reilly: Who is he?

Mr. Wilentz: Indicating Detective Patterson.

Q. Do you remember in 1934, in December, 1934, Detective Patterson and—is it Sergeant Wallace?

A Voice: Detective Sergeant Wallace, New York City.

Q. (Continuing.) And Detective Sergeant Wallace of the New York Police Department came to see you at your house? A. That is right.

Q. Didn't you tell them then in 1934, that you couldn't remember any dates?

Mr. Reilly: I object to anything he told in the absence of the defendant.

Mr. Wilentz: As to any dates.

The Court: I think it is proper. He hasn't finished his question yet. Finish your question.

Q. Didn't you tell the two officers, Detective Patterson of the New Jersey Police and Detective Wallace of the New York Police in December, 1934, at your house? A. In my house?

Q. In your house. A. In December?

Q. December, 1934. A. It wasn't in my house.

Q. Where did you see them in December, 1934? A. Where I work.

Q. All right. In December, 1934. And they again discussed with you dates? A. I don't remember that it was in December, but maybe it was.

Q. Late in 1934 anyway? A. I guess it was before Christmas.

Q. But in December, don't you think? A. Yes.

Q. And didn't you tell them again that you didn't remember any of the dates? A. Yes, that's right.

Q. That is right. Now in January, 1932, the first Saturday of the month, and February, 1932, did you go there every Saturday to play the mandolin and the guitar? A. Yes.

Q. And it was every Saturday night? A. Yes.

Q. January, February, March, April, 1932? A. I guess we start in February. I wasn't there in January.

Q. You weren't there in January? A. No.

Q. Were you there in December, 1931? A. I don't think so.

Q. So you didn't have a custom at all? A. Oh, yes.

Q. You just started in February, 1932? A. No, we had it long before 1930 already.

Q. Oh, but you didn't continue the custom in January, 1932? A. Not in—only in these two months I guess I wasn't there.

Q. What two months? A. I don't know. Maybe it was—

Q. January and February, 1932? A. No, it was December.

Q. December, 1931, and January, 1932? A. December, 1931, and December—January, 1932.

Q. No music Saturday nights? A. I don't know, I don't think so.

Q. When did you start again? A. It was in February.

Q. When in February? A. I don't remember.

Q. How do you remember that it was February, 1932? A. Because we didn't meet so often in that time, in these two months, and later on we saw each other once or twice a week again.

Q. Yes, but why do you say now, in 1935, that it wasn't in January, but it was in February? What is it that brings it to your attention? A. What?

Q. The fact that you resumed playing music Saturday nights? A. Because we always friends together and we played long before already.

Q. Yes, but you were friends in January, 1932 also, weren't you? A. Yes, but we didn't see each other so often.

Q. What is it that fixes it in your mind that it was February when you resumed playing music? A. He came then to me in my house, Hauptmann and his wife.

Q. But you have nothing in your mind or any record that shows it was February, 1932, have you? A. Not exactly the date in February.

Q. No. A. But it was in February.

Q. The month, how do you remember it? A. Well, how can I remember that?

Q. Where were you on the night of March the 1st, 1932, do you know? A. I think I was at home.

Q. Yes. What you are doing when you say February, 1932, is, you are guessing, aren't you, Mr. Kloppenburg? A. No, I am pretty sure about it.

Q. Why—that is what I have been trying to find out from you. A. Because Hauptmann came one Sunday in mine house and it was in February.

Q. Well, what makes you remember it? That is what I want to know. A. There was a friend of mine, he came the same Sunday to mine house, and he had a job for me. That was in February.

Q. What job was it? That is what I want to know. A. He offered me a job as a porter downtown.

Q. Who was the friend? A. That was Mr. Henrich. He is now in Germany. We was a shoemaker.

Q. Did you take the job? A. No, sir, it was a fake.

Q. Where did you work—it was a fake? A. Yes.

Q. Where did you work that month when you resumed your music? A. I didn't work at all. I was out of work.

Q. When did you start to work after that? A. Well, I had, sometimes I had little jobs.

Q. The first job you had after the time you

started playing your music, where did you work? A. My first steady job was, I get 1933 in January.

Q. So that from February, 1932, until January, 1933, you didn't have a steady job? A. No.

Q. Do you remember any job you had anywhere after February, 1932, when you resumed playing your music? A. Yes, I worked for my landlord.

Q. What was his name? A. It was Cohen.

Q. Where? A. 175th Street.

Q. 175th Street? A. That's right.

Q. Do you remember the number or near what street? A. It is between Park Avenue and Webster Avenue.

Q. Between Park Avenue and Webster Avenue? A. That's right.

Q. And do you remember how long it was after you started your music lesson or music playing? A. How long it was after, we had the whole year music nights, 1932.

Q. I mean, when you worked here at Cohen's how long was that after the February you started resuming your music lesson, a month, two months, three months? A. It was in June, about.

Q. June. All right. That's all.

Mr. Reilly: That is all.

(Witness excused.)

Mr. Reilly: May I ask for indulgence for the noon recess? We have a witness coming on the noon train.

The Court: The audience will remain seated until the jury has retired. You may be excused now and come back at 1:45.

(The jury retired.)

The Court: The prisoner is now remanded to the custody of the sheriff, and he may retire.

(The prisoner retired in the custody of the sheriff.)

The Court: We will now take a recess until 1:45 and the audience may retire.

(At 12:26 p. m. a recess was taken until 1:45 o'clock p. m.)

AFTER RECESS

(1:45 p. m.)

(The jury was polled and all jurors answered present.)

The Court: Counsel may proceed.

Mr. Reilly: Mrs. Bonesteel.

ANNA BONESTEEL, sworn as a witness in behalf of the defendant.

Direct Examination by Mr. Reilly:

Q. Now, Mrs. Bonesteel, will you face this way and talk loud enough for the last juror to hear you. Where do you live, please? A. 71 Alexander Street in Yonkers.

Q. You operate a restaurant, don't you? A. Yes.

Q. Where? A. In 71 Alexander Street in Yonkers.

Q. Well, now, is that restaurant in Yonkers somewheres near the dock? A. It is at the Yonkers Ferry.

Q. It is the New York side of the Yonkers Ferry, is that correct? A. Yes, sir.

Q. And the ferry runs to what part of Jersey? A. Alpine.

Q. How long have you had that restaurant? A. Five years.

Q. And what time do you attend the restaurant? A. I am there generally from six or seven till about twelve, one; depends upon how the business is, but I am there.

Q. Six or seven in the morning? A. Yes, sir.

Q. All day long? A. All day long.

Q. Up to midnight. Now I show you a picture and ask you whether or not—I am referring to Defense Exhibit 1 for identification—you recognize this picture? A. Yes, sir.

Q. And whose picture is it? A. It is Violet Sharpe.

Mr. Reilly: I offer it in evidence.

The Court: Is there any objection?

Mr. Wilentz: No objection, sir.

(The picture was received in evidence and marked Defense Exhibit D-46.)

Q. How long before the kidnaping of the young Lindbergh baby did you know Violet Sharpe? A. About two or three months.

Q. And where did you meet her? A. She came to our restaurant, was brought in by another girl.

Q. Do you know who the other girl was? A. I

knew who she was, but I forgot her name. She went away.

Q. Where did the other girl work? A. She worked somewheres in Alpine.

Q. Did the other girl introduce you to Violet Sharpe? A. She introduced me and said this girl—

Mr. Wilentz: Just a minute; just a minute.

Q. Yes or No. Did she introduce you? A. Yes.

Q. How long was Violet Sharpe in your restaurant the first time she came there? A. About a half an hour.

Q. And were you close enough to her during the half hour to get a good look at her features? A. I sat opposite her.

Q. Did you talk to her? Yes or no. A. Yes.

Q. And when in connection with the Lindbergh kidnaping do you say Violet Sharpe first came to your restaurant? A. On the night of the kidnaping.

Q. How long before that was that, the night of the kidnaping, the first time? A. Oh, about two or three months.

Q. Before? A. Before the kidnaping.

Q. How many visits did she pay between the first visit and the night of March the 1st, 1932? A. That one visit.

Q. On March 1st, 1932, did you see her? A. Yes, sir.

Q. That was her second visit? A. That was her second visit.

Q. Now, where did you see her March 1st, 1932? A. She came into our restaurant.

Q. Into the restaurant? A. Into the restaurant.

Q. About what time? A. About half past seven.

Q. In the evening? A. In the evening.

Q. How long did she stay? A. She stayed until about half past eight, a quarter to nine.

Q. While she was there during that time in your restaurant you saw her? A. Yes, sir.

Q. It was the same girl that you had seen before? A. Yes, sir.

Q. You couldn't be mistaken? A. I couldn't be mistaken. She asked me what time it was.

Q. Did you talk to her? A. She asked me what time it was and I said "There's the watch," and with that she turned around and spoke no more to me.

Q. Now, what was she doing in your restaurant? A. She came in, she had a gray blanket on her arm, she was very, very nervous, she says: "I am waiting for someone." She kept looking out and opening the door and I kept watching her and several times I said, "Gee, she looks like a hen on a hot griddle, why don't she stop that."

Mr. Wilentz: I move that be stricken out, if your Honor please.

The Court: What is that?

Mr. Reilly: I consent to it, just an observation of a woman.

Mr. Wilentz: An observation about a hen or something.

The Court: Yes, it may be stricken out.

Q. Well now, as she was watching out, and as you have described she was, her actions, while

she was holding the blanket,—what kind of a blanket was it? A. A gray blanket.

Q. Did you see her leave? A. Yes, sir.

Q. And when she left, what did she do and in what direction did she go? A. She left when she saw a car came down, she put her hand up to it, it slowed up and the car stopped about 200 feet away from our restaurant, she—

Q. Then did she go? A. —she run up to the car, she got in it, and the car drove away.

Q. Did you ever see her again? A. I did, after I seen the picture of her in the paper, and I said, "That is the same girl that was in our place."

Mr. Wilentz: I move that be stricken out.

Q. How long after that—

The Court: Just a moment.

Mr. Reilly: I consent to it.

The Court: Yes, strike it out.

Q. How long after that did you see her picture in the paper? A. Oh, I don't know, I guess the first time it appeared in the paper.

Q. Now, when did you first hear of the Lindbergh kidnaping? A. The next day.

Q. And how did you obtain the information? A. I think, well, everybody was talking about it, radio and papers.

Q. That is the way. Did you hear it on the radio the next day? A. No—the next day, yes, but not that night.

Q. And did you see it in the papers the next day? A. Yes, sir.

Q. When did you first tell anybody about Violet

Sharpe being at your restaurant March the 1st, 1932? A. Oh, I told several people and they said, "Oh, don't pay any attention to it."

Q. You have a family, have you? A. I have four children.

Q. Now will you tell us how you became a witness here? A. Well, I become a witness here not because I want to be a witness here—

Mr. Wilentz: I move that be stricken out, if your Honor please.

Q. Did—

Mr. Wilentz: Just a minute. Is that consented to?

Mr. Reilly: No, I think not. I think this is perfectly competent and proper.

The Court: I will allow it to stand.

Q. Did some newspaper men come to you in the last three or four weeks? A. They came to me after a neighbor told them.

Q. And then did you communicate with or did our office communicate with you? A. Your office communicated with me.

Q. And you were here on Friday as a witness? A. Yes, sir.

Q. And while here as a witness were you instructed by one of the guards here to go home? A. I was said to clear the aisle and they cleared the aisle and I went out.

Q. Did you tell them you were a witness? A. I did, but he said, "If Reilly wants you to sit down let him find room for you."

Q. Then you went home, didn't you? A. I certainly did.

Q. You came back today: is that correct? A. Yes, sir.

Mr. Reilly: You may inquire, General.

Cross Examination by Mr. Wilentz:

Q. They offered you a seat in one of the rooms, didn't they, madam? A. No, sir; they did not.

Q. Didn't they tell you you could have a seat there? A. No, sir; they did not; they took me by the arm and said "Clear the aisle."

Q. You wanted a front row seat? A. No, sir; I didn't come for front row seats.

Q. At any rate, you are here today, aren't you? A. Yes.

Q. And whether you were here Friday or not you would tell the same story? A. Yes, sir; I will.

Q. Now, this ferry from Yonkers to Alpine is not the ferry that runs from Weehawken to New York, is it? A. No, sir; it is not.

Q. That's a different ferry? A. That's a different ferry.

Q. You are familiar with both of the ferries? A. No, I am not familiar with the Weehawken Ferry.

Q. I see. How far away would you say it was from— A. I don't know how far it is.

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

Mr. Wilentz: May I have those others?

(Two photographs produced by Mr. Hauck.)

Q. You didn't see any baby? A. No, sir, I didn't see no baby.

Q. You saw a woman whose picture was just exhibited to you? A. Yes, sir.

Q. Now when she was coming to your place she was coming with another young lady whom you knew better, isn't that right? A. Whom I knew better, yes.

Q. You knew the other lady's name at the time, didn't you? A. I did know her name, but I forgot it; I can't remember her name.

Q. But I mean at that time when she was coming to your place you knew her name, the other lady? A. I knew her name, yes.

Q. But you didn't know this girl's name at the time, did you? A. No, I didn't know this girl's name.

Q. You didn't know this lady's name until after the crime? A. No, I knew the lady's name before the crime.

Q. When? A. Because she—

Q. When? A. Before the crime.

Q. When? A. When she first brought her in, about two months.

Q. Two months? A. Yes.

Q. You had never up to the night of the crime talked to this lady though, had you? A. No, sir, just through conversation at the table, where she had something to eat.

Q. Yes. A. I believe it was a cup of coffee.

Q. But otherwise you had never talked— A. No.

Q. —to the lady in Exhibit 46? A. No, sir.

Q. Until the night of the crime; and the only time— A. The night of the crime? Before the crime.

Q. Well, you hadn't talked to her about any-

thing, had you? A. No, the night of the crime she asked me what time it was.

Q. Yes, we will get to that. A. Yes.

Q. Before the night of the crime you had never talked to her? A. No.

Q. But on the night of the crime she asked you what time it was? A. Yes.

Q. And you said it was 7:30? A. Yes.

Q. Then later on you saw pictures of Violet Sharpe? A. Yes.

Q. And it was your impression that the lady that was in there was Violet Sharpe? A. It was impressed very deeply on my mind.

Q. Yes, yes, ma'am. Now don't you know as a matter of fact that Violet Sharpe never left the Morrow home until eight or 8:30 that night? A. I don't know.

Q. You don't know? A. Whether she did or not.

Q. You don't know that. Of course, if that were the fact, then you would appreciate that you are mistaken, wouldn't you? A. Well, I wouldn't say I was mistaken.

Q. I want to show you Exhibit 290 for identification; see if that was the other lady that was with her, or if that lady was there that night. A. No.

Q. What is it? A. No, sir; that isn't.

Q. That lady? A. That isn't the girl.

Q. That was there that night? A. No.

Q. Don't you know that that was the last picture that was taken of Violet Sharpe? A. That isn't Violet Sharpe. If it is, I can't—her face, when Violet Sharpe came into our restaurant, twice, she had a hat and coat on and that makes some difference.

Q. Well, she didn't keep the hat and coat on

while she was having the coffee? A. She certainly did.

Q. Now, take a look at her face and forget the hat and coat for a minute. It doesn't look anything like her, does it? A. (Examines photo) It does and it doesn't.—Yes, it does.

Q. Isn't that the lady that was with Violet Sharpe?

Mr. Reilly: May we have the answer?

The Court: Yes, surely. What is the answer?

A. That isn't the lady that was with Violet Sharpe.

Q. Is it Violet Sharpe? A. I think that is Violet Sharpe; I am sure that is Violet Sharpe.

Q. Well, a few moments ago you said it wasn't. A. Well, I looked at it better.

Q. You looked at it better? A. Yes.

Q. Will you see if you can pick out any one of the ladies that were in your place that night. A. (Examines photograph) Yes, I believe it is this one (indicating).

Q. Just put a little X or something there. A. (Marks on photo). I believe it is this one. I wouldn't be sure. Yes, I believe it is that one.

Q. Now, that is on S-391 for Identification. About how old would you say the lady was that was in your place? A. Oh, I would say she was about 25, 28.

Q. Have you seen the other lady since? A. No, I haven't.

Q. Never saw her since that night? A. No, sir.

Q. Was the other lady there that night? A. She was.

Q. Both of them there together? A. Yes.

Q. Do you say now that that particular night that two ladies came in? A. Two.

Q. The same girl that had come in with her on other occasions? A. I am quite sure it was the same girl. It was the same girl that brought the girl that worked for the Morrows in.

Q. You are quite sure or you are sure? A. I am quite sure she was.

Q. You may be mistaken? A. Well, no, I am sure that it was the same girl.

Q. So that the two girls came in that night, not one. A. On the night—Not on the night of the kidnaping.

Q. That's what I am talking about. A. Well, I am not talking about that night.

Q. Well, then, supposing we both start talking about the night of the kidnaping. A. Let's talk about that.

Q. Were there two or one that came in on the night of the kidnaping. A. One on the night of the kidnaping.

Q. And that girl had a blanket? A. Yes, sir.

Q. What kind of a blanket was it? A. It was a gray blanket and it was a heavy blanket. I use blankets enough to know whether it was single or double.

Q. Never mind what you use. Just answer the question. Was it a gray blanket and a heavy blanket? A. Yes.

Q. And it wasn't covered or wrapped in anythink? A. No, sir.

Q. She was carying it? A. On her arm.

Q. Yes. And eventually she left in an automobile? A. Yes, sir.

Q. And you didn't see with whom she left? A. Two men were in the car but I did not see them. They went past too fast.

Q. Do you know whether there was another

woman in the car? A. I couldn't see anybody in the back.

Q. So that all you know is that some woman came into your place about 7:30 o'clock on the night of the kidnaping. That woman you say is Violet Sharpe. She came in at 7:30. She had a blanket and she left with two men in an automobile? A. Uh-huh.

Q. The men you don't know? A. No.

Q. Nor the kind of automobile it was. A. I don't know what kind it was. It was a good automobile and it was dark.

Q. What time did she leave? A. About a quarter after eight or half past eight or quarter to nine.

Q. And she stayed there for an hour? A. Yes, sir.

Q. At least an hour? A. At least an hour. That is why we were so suspicious of her.

Q. Did nothing? A. Did nothing, just waited.

Q. About a quarter to nine? A. Yes.

Q. She left a quarter to nine? A. Well, about half past eight, quarter to nine. That time I didn't know, because I looked at the watch—

Q. But she left that place about half past eight or quarter to nine? A. She left about half past eight or quarter to nine.

Q. With a couple of men? A. Two men in the car.

Q. You saw no child in the car? A. I saw no child in the car.

Mr. Wilentz: That is all.

By Mr. Wilentz:

Q. You don't know the name of the other girl? A. No, sir.

Q. You don't remember it? A. I don't remember.

Q. When was the last time that you did recollect the name? A. I can't remember.

Q. Was there anybody in the place, anybody in your family that remembers her name? A. No, sir.

Q. Did you ask her about the name? A. The only one that saw the girl mostly, because she came in evenings—

Q. Was there anybody in your business or household that knew the other girl? A. No.

Q. And they didn't know the name? A. No.

Q. You are the only one that knew her name and you have forgotten it? A. Yes.

Q. And you have forgotten it? A. Yes.

Q. Oh, what newspaperman came to see you? What paper did he represent? A. What newspaperman?

Q. Yes, a couple of weeks ago. A. A lot of newspaper men came.

Q. The man that came that communicated with you in connection with the defense. A. The Herald-Statesman, Yonkers paper.

Mr. Wilentz: All right; thank you, madam.

Mr. Reilly: Now, will the Constable page Mr. Moses. See if he is out in the hall.

(Witness excused.)

The Court: Doesn't Mr. Moses appear?

Mr. Reilly: We had him under subpoena, Judge. He was here on Friday and on Sat-

urday. That is one of the difficulties we have.

Take the first young man on that defense bench.

JOSEPH DUTT, sworn as a witness on behalf of the defendant.

Direct Examination by Mr. Reilly:

Q. Where do you live? A. 563 Underdock Avenue, Brooklyn.

Q. Do you know Mr. Sommers? A. Yes, sir.

Q. In 1932, did you live with him? A. Yes, sir.

Q. Is he any relative of yours? A. He has raised me since I have been six weeks old.

Q. You live in his house? A. Yes, sir.

Q. Live with his family? A. Yes, sir.

Q. And at that time what was your business? A. A radio mechanic.

Q. Were you employed at that time? A. Not steadily.

Q. Now do you recall March the 1st, 1932? A. Yes, sir.

Q. Where were you that night? A. I was at a dance.

Q. And who accompanied you to the dance? A. A pal of mine.

Q. What is his name? A. Carl Joerg.

Q. Is he here? A. Yes, sir.

Q. When you came home from the dance that night, did he stay with you, Carl Joerg? A. No, sir.

Q. Well, the next morning did he come to your house? A. Yes, sir.

Q. And while he was at your house did Mr.

Sommer say that he was going anywhere? Yes or no. A. Yes, sir.

Q. And did you go with Mr. Sommer and Mr. Joerg to any station house? A. Yes, sir.

Q. Where? A. We went to the 81st Precinct on Ralph and Quincy.

Q. In Brooklyn? A. Yes, sir.

Q. March the 2nd? A. March the 2nd.

Q. Now when did you first hear of the kidnaping? A. About one-thirty March the 2nd.

Q. In the afternoon? A. In the morning.

Q. In the morning? A. Yes, sir.

Q. While you were at the dance or coming home from the dance? A. Coming home from the dance.

Q. Was it a radio? A. Radio.

Q. Radio. Now did Mr. Sommer report what he had seen on March the 1st to the police on March the 2nd? A. Yes, sir.

Q. And were you there when he did it? A. Yes, sir.

Mr. Reilly: You may take the witness.

Cross Examination by Mr. Wilentz:

Q. You have lived with Mr. Sommers you say since you were six weeks old? A. Yes, sir.

Q. Your name is Joseph Dutt? A. Yes, sir.

Q. Mr. Sommer is your father? A. Only by sort of adoption, not legally.

Q. Well, Mr. Sommer also used the name Dutt, doesn't he? A. No, sir.

Q. You also use Sommer for a name, do you not? A. No, sir.

Q. What? A. No, sir.

Q. You have never known any other father but Mr. Summer, have you? A. No, sir.

Q. And he is your father, isn't he? A. In a way.

Q. In a way. All right. That is, I don't mean by adoption, I mean actually he is your father? A. No, sir.

Q. Well, if you say so. What was the name of the officer to whom the report was made? A. I do not know the name of the officer.

Q. Would you know him if you saw him? A. I may, but after such a long period of time I wouldn't guarantee it.

Q. Have you seen him here today? A. Not that I know of.

Q. What was the color of the man's hair? A. It was reddish complexion.

Q. Do you see this gentleman here (referring to a gentleman at Mr. Wilentz' table)? A. Yes, sir.

Q. Was he there? A. Well, it is the build somewhat of his, I couldn't just tell you definitely if that is the man.

Q. You won't say yes?— A. No, sir.

Q. And you won't say no? A. No, sir.

Mr. Wilentz: All right sir, thank you, that is all.

Mr. Reilly: Mr. Joerg.

CARL HERMAN JOERG, sworn as a witness in behalf of the defendant.

Direct Examination by Mr. Reilly:

Q. Where do you live? A. 1027 Flushing Avenue, Brooklyn.

Q. How long have you lived there? A. Twelve years.

Q. Do you know the last witness? A. Yes.

Q. How long have you known him? A. Oh, since 1928 or 1929; I don't know exactly.

Q. In 1932 what was your business? A. I was an electrician.

Q. Do you recall where you were on March the 1st, the evening of March the 1st, 1932? A. Yes, at the Roseland Ballroom at Broadway.

Q. New York? A. New York.

Q. About what time that night or that next morning did you hear the news that Colonel Lindbergh's baby had been kidnaped? A. I heard it by means of radio rather early in the morning, or late at night.

Q. What time did you return to your home that night? A. Well, probably after three o'clock.

Q. The next morning did you go around—go to anybody's house? A. Yes, I went to Joe Dutt's house.

Q. While there did you see anybody? A. Yes, Mr. Sommer was there.

Q. And how long had you known Mr. Sommer? A. Also since 1929, '28 or '29.

Q. Did you go any place with Mr. Sommer? A. Yes. We went to a police station.

Q. Where? A. At Ralph Avenue and Quincy Street.

Q. Did Mr. Sommer report what he had seen or heard the night before? A. Yes. Well, I really didn't hear everything that was said, but I caught small snatches and it was the story that he told us early in the morning before we left the police station.

Q. But you are sure he went to the police station on March 2nd, 1932? A. That's right.

Q. To report something he had seen? A. That's correct.

Q. In connection with the Lindbergh case? A. Correct.

Mr. Reilly: You may inquire.

Cross Examination by Mr. Wilentz:

Q. Did he say anything about Violet Sharpe that night? A. No, sir.

Q. Do you remember the officer to whom the story was given? A. Well, I really didn't pay any strict attention.

Q. Would you be able to recognize him if you saw him again? A. I doubt it.

Mr. Wilentz: Will you stand up, Detective, please.

(A man stands in the courtroom.)

Q. Will that refresh your recollection as to whether that is the gentleman? A. As I said before, I couldn't be sure.

Mr. Wilentz: All right, sir; that's all.

Re-Direct Examination by Mr. Reilly:

Q. Did he say anything about a woman that he had seen? A. Yes. He mentioned that he had seen a woman on the trolley car. She carried a baby that resembled the Lindbergh child.

Mr. Wilentz: Just a minute. He answered the question.

Mr. Reilly: I think the door was opened

when he asked if he mentioned Violet Sharpe.

The Court: Well, you have the answer. I will allow it to stand.

(Witness excused.)

PAUL VETTERLE, sworn as a witness in behalf of the defendant.

Direct Examination by Mr. Reilly:

The Court: Your first name is what?

The Witness: Paul.

Q. You live where? A. I live 1605 Putnam Avenue, Brooklyn.

Q. And what relation are you to Mr. Hauptmann or Mrs. Hauptmann? A. No relation at all, but I know Mrs. Hauptmann all my life.

Q. Did you know Mrs. Hauptmann in Germany? A. Yes, we went to school together in the same school house.

Q. And how long are you in this country? A. Eleven and a half years.

Q. And have you been in the habit of visiting the Hauptmanns? A. Very seldom. I saw Mrs. Hauptmann 1924 on a picnic and then I saw—I don't know whether I saw her up to 1932 and 1933, that night when I was up the Bronx.

Q. Do you remember being at the Hauptmann home on November 26th, 1933, the birthday? A. Yes, I do.

Q. Who else was there? A. Mr. and Mrs. Hauptmann, Mrs. Mueller and her baby and Mr. Fisch.

Q. And Mrs. Mueller. How do you spell that—M-u-e-l-l-e-r? A. Yes, sir.

Q. Is that Mrs. Hauptmann's niece? A. Yes, sir.

Q. What time did you arrive there? A. About three o'clock or half past three in the afternoon.

Q. At that time was Hauptmann there? A. No.

Q. What time did he come in? A. Maybe an hour later.

Q. When he came in did he say where he had been? A. He had been—

Q. Yes or no?

Mr. Wilentz: Just a minute. Just yes or no.

Q. Did he say where he had been? A. Yes, sir.

Q. How was he dressed? A. He had rough clothes on.

Q. By that what do you mean? A. Oh, I guess he had an old sweater and old clothes, no Sunday, no good suits he had on.

Q. He didn't have Sunday clothes on, did he? A. No.

Q. How long did he stay there that night, Hauptmann? A. All the time I was there.

Q. How long did you stay there? A. At least till ten.

Q. Till ten o'clock? A. Till ten o'clock.

Q. Do you remember how long Mrs. Mueller stayed there? A. We left altogether, Mr. Fisch, Mrs. Mueller and I.

Q. And what did you do during the evening, the party with Fisch, Mr. Mueller and you and Mr. and Mrs. Hauptmann? How did you spend the evening? A. When I came up, only Mrs. Mueller and Mrs. Hauptmann was there.

Q. Don't tell us anything that was said. A. Yes.

Q. Just tell us how you spent the evening. A. Well, we talked a lot about Germany; Mrs. Mueller asked me how her folks were home, Mrs. Hauptmann the same thing; and then, when Mr. Fisch came home, we talked about this and that; we had some coffee; and around seven o'clock Mr. Fisch came, and then Mr. Fisch—Mrs. Hauptmann said—

Mr. Wilentz: No, never mind what Mrs. Hauptmann said.

Q. Just what you did. A. Yes. Mr. Fisch asked me—

Mr. Wilentz: No, please. Just what you did.

Q. What they did. If they did— A. We talked.

Q. Talked? A. And Mrs. Hauptmann told Mr. Fisch—

Mr. Wilentz: Never mind what she told Mr. Fisch.

Q. Never mind that. You talked? A. Just let me finish.

Mr. Wilentz: If you don't mind—

The Witness: Yes.

Mr. Wilentz: —don't even start it, and you won't have to finish it.

A. Oh, well, you asked me what I did. Now I want to tell. Mr. Hauptmann told Mr. Fisch—

Mr. Wilentz: Just one minute.

The Court: One moment. You have been told not to answer that question. Mr. Reilly isn't asking any such question as that.

Mr. Reilly: I asked him what they did.

The Court: Yes.

Mr. Reilly: I asked him what they did.

The Court: Yes.

By Mr. Reilly:

Q. If you played some games or played music or something like that, that is what I mean. A. We didn't make no music.

Q. Did you just sit around and talk? Yes or no. A. We talked, we played the radio.

Q. Tell us what you did. You played the radio and what else? A. Played the radio and most of the evening I was talking about Germany.

Q. All right. A. What I had seen home, because six weeks before I come back.

Q. All right. You talked and spent the evening in conversation, is that it? A. Yes, sir.

Q. And listening to the radio? A. Yes.

Q. And you left at what time? A. Ten o'clock, something like it.

Q. And who left with you? A. Mr. Fisch and Mrs. Miller; Mr. Hauptmann drove us down to the station.

Q. What station did he drive you to? A. I was the first one to get off at 225th Street station.

Q. Subway? A. It is elevated there, but afterwards it becomes subway.

Q. Subway. Did you go to Mrs. Muller's house yesterday? A. Yes, I was up there.

Q. Was she home? A. No, she wasn't home.

Q. Did you go up there for the purpose of bringing her here today as a witness? A. Yes, sir.

Mr. Reilly: You may inquire.

Cross Examination by Mr. Wilentz:

Q. Of course, when you say ten o'clock, it may have been, I suppose, quarter to ten? A. It might have been.

Q. How about half past nine? A. Never.

Q. No? A. Because I remember—

Q. You give yourself fifteen minutes, is that it? A. Yes.

Q. You hadn't been in that house from 1924 to 1932? A. Never.

Q. You didn't know Mr. Hauptmann in Germany, did you? A. No.

Q. You knew nothing about him? A. I—

Q. About his German life, did you? A. Never.

Q. But you did know Mrs. Hauptmann? A. Yes, I did.

Q. And you had been in there from three o'clock on? A. Yes.

Q. As a matter of fact, Mrs. Muller and you all left about six o'clock, didn't you? A. Left where?

Q. That night, left the home there. A. I said—

Q. The Hauptmann home. A. —ten o'clock.

Q. When? A. Ten o'clock in the evening.

Q. When, what day, what year? A. November 26th, 1933.

Q. November what? A. 26th.

Q. And there was only Fisch, Mrs. Muller— A. and her baby.

Q. —and you and Mr. and Mrs. Hauptmann? A. Yes, sir.

Q. When did Mr. Hauptmann change his clothes, or didn't he? A. Right after he came home.

Q. I see. But you are sure Fisch was there? A. Yes, I am sure.

Q. No question about that? A. No question about it.

Mr. Wilentz: All right, that is all.

(Witness excused.)

THOMAS H. SISK, recalled as a witness for further

Cross Examination by Mr. Reilly:

The Court: What is the name of this witness, Mr. Reilly?

Mr. Reilly: Sisk, S-i-s-k. Government Agent.

Q. When I was examining you I believe that we stopped to get permission, is that correct? A. Yes, sir.

Q. Permission has been granted, has it not? A. In connection with—

Q. To bring a report of some kind? A. Yes, sir.

Q. Have you that report? A. I have permis-

sion to produce a portion of the report dealing with that subject.

Q. Well, that is all I want. A. Yes.

Q. May I see it? A. Yes, sir. (Handed report to Mr. Reilly.)

Q. Did you speak to Dr. Condon concerning his finding of an impression of a foot print on a fresh grave which he found several days after he handed over the ransom money? A. Yes, sir, I did.

Q. And how many days after the payment of the ransom money did Mr. Condon tell you he found the footprint on the grave? A. As I recollect, he stated it was two or three days after the payment of the money.

Q. Did he tell you as to whether or not any police officer was with him when he found the footprints? A. Yes, he did.

Q. Did he give you the name of the police officer? A. No, sir, he did not.

Q. Did you ask him for it? A. I asked him, but he did not know the name of the officer.

Q. He couldn't remember? A. No.

Q. Did he say whether or not he had a description of the police officer from which he could point him out? A. I didn't ask him that.

Q. Did you attempt to find out who the police officer was? A. Well, no, I did not.

Q. Did he have any description by which you could identify the police officer that was with him at that cemetery? A. Well, that I do not remember.

Q. Did he furnish you with any description? A. No, sir, he did not.

Q. Was he able to? A. I don't believe he was.

Q. And how many days before you talked to Dr. Condon about this incident was he down at the cemetery with the police officer whose description

he could not furnish you with? A. Well, I talked to him a considerable length of time after the payment of the ransom money.

Q. Now you understood me, didn't you? A. Possibly I did not.

Q. All right, I will give it to you again slowly. How many days after Dr. Condon said— I will put it this way— Dr. Condon told you he had been at the cemetery with a police officer and found a footprint in a fresh-made grave, is that right? A. Yes.

Q. He told you that was two or three days after he paid over the money? A. Yes.

Q. How many days after his visit to the cemetery did you talk to him? A. I talked to him approximately a year and a half later.

Q. Did you also learn that this footprint was apparently made by a person who had jumped from some height and that the size and shape of the footprint was distorted? A. Yes, sir.

Q. Was there anything around this grave that you could jump from? A. There was a retaining wall about two or three feet high.

Q. Now, Condon, Dr. Condon, was very familiar with St. Raymond's Cemetery, wasn't he? A. Well, I don't know that he was very familiar with it, no.

Q. Well, didn't— A. I never heard that.

Q. Didn't your investigation disclose that several members of Dr. Condon's family were buried in St. Raymond's Cemetery? A. No. Our investigation did not disclose that. We had received information that some of them were buried there, but investigation disproved that fact.

Q. Well, wasn't it Dr. Condon that advised you —I am now reading from your official report— A. That is not my report.

Q. Well, it was made by one of your agents? A. Yes. I read it before I gave it—

Q. Who made this report? A. Special Agent Seykora.

Q. Seykora? Is he still in the service? A. Yes, sir; he is.

Q. Did you talk to him about this report? A. No, I did not.

Q. Where is he now? A. In New York.

Q. At the main office, New York? A. Yes, sir.

Q. Did you ever talk to Dr. Condon about this report, after you read Seykora's report? A. I talked to Dr. Condon about that footprint.

Q. Did you question Dr. Condon about Seykora's report? A. Well, I don't recall, Mr. Reilly, whether I talked to him about the whole report or not.

Q. Well, let me see if I can refresh your recollection.

Mr. Wilentz: I would appreciate it if counsel didn't read the report.

Mr. Reilly: If you consider it improper at this time, of course I won't read it, I will call the agent.

Mr. Wilentz: Of course, I don't know what it is, I haven't had an opportunity, naturally I can't consent to just a blank reading.

Mr. Reilly: I will call Agent Seykora then. May I have this copy of the report marked for identification so it will appear that it is the same copy.

The Reporter: D-47 for identification.

(Paper referred to was marked Defense Exhibition D-47 for Identification.)

Mr. Reilly: That is all. I will call Agent Seykora.

Re-Direct Examination by Mr. Wilentz:

Q. I just wanted to ask you one question. In your investigation did you find out who actually took the foot print of that foot print that was there, who took the impression? A. Yes, sir.

Q. Was it Dr. Condon? A. No, sir.

Q. Who did take the imprint? A. Mr. Ralph Hacker and Colonel Breckinridge.

Q. Yes. A. According to my information.

Mr. Wilentz: Yes, sir, that is all Mr. Sisk.

(Witness excused.)

Mr. Reilly: Your Honor, we had five more witnesses who were to be here today. One man is ill in bed. He has been ill for a week. We received word of that. And Mrs. Mueller didn't attend. Mr. Moses was here all last week and was under subpoena today. He didn't attend. May we have five minutes to see if we can get somebody who may be in the vicinity?

The Court: Yes.

We will have a recess for five minutes.

(Whereupon at 2:37 P. M. a short recess was taken.)

(2:42 P. M.)

(After a short recess the jury was polled and all jurors answered present.)

Mr. Fisher: Captain Snook, New Jersey State Police.

RUSSELL A. SNOOK, sworn as a witness in behalf of the defendant.

Direct Examination by Mr. Fisher:

Q. In the month of March 1932, Captain, what was your official position with the New Jersey State Police Force? A. I was Supervisor of the State Bureau of Identification.

Q. You were in charge then of the department that had to do with identification? A. That is right.

Q. Under your control what records were kept, what identification records were kept? By that I mean photographs, fingerprints. A. Photographs and fingerprints, yes, sir.

Q. Anything that had to do with identification was under your direct control? A. That is right.

Q. Now at that time who was in charge of your fingerprinting bureau, next under you in a subhead fingerprints, who was in command of that? A. Lieutenant Sjostrom.

Q. Now at that time where did Kelly fit in the fingerprint picture? What was his official position? A. Kelly was an operator in the Troop Identification Bureau operating from Morristown.

Q. And what were Kelly's duties? A. His duties consisted of investigating at scenes of crimes which were being investigated by the troop and collecting the records of that troop

which were in turn forwarded to the central bureau.

Q. Now did Kelly have anything to do with identification of prints after they were returned to your department? A. He did not.

Q. As I understand it then, he would go out and look for the finger prints and find them if there were any or any that could be found and return with his records to your department where if they were finger prints, Captain Sjostrom would be first in line to receive them; is that right? A. If they required checking.

Q. Yes; if there was an effort made to hook them up to an individual, Captain Sjostrom would undertake that job, is that correct? A. That's correct.

Q. And Captain Sjostrom answered to you? A. That's right.

Q. Now did you have any communication as Chief of the department of identification with a Dr. Hudson of New York City? A. Not directly, no.

Q. Did you exchange any correspondence with him at all, Captain, on the subject of fingerprints in the Lindbergh case? A. Not at that time, no, sir.

Q. At any time, Captain, from March the 1st, 1932, until today, have you exchanged any communication with Dr. Hudson in reference to fingerprints in connection with the Lindbergh kidnaping? A. I can't say that I have exchanged any communication.

Q. Have you written to him at any time? A. I have written to Dr. Hudson on various occasions.

Q. In connection with the Lindbergh kidnaping case? A. I don't know that I have directly in connection with the case.

Q. Well, directly or indirectly have you sent

any communication to Dr. Hudson that had to do with fingerprinting in connection with the Lindbergh case? A. I can't recall that I have had any communication on that particular subject with the doctor.

Q. Well now, let me refresh your memory for a moment, Captain. Were there any fingerprint photos taken of the entire ladder, minute photos of the entire kidnap ladder? A. I don't understand what you mean.

Q. A photograph camera takes a small picture, a small surface, doesn't it, about 2 by 3? A. Approximately, yes.

Q. That is right, isn't it? Now. did you take, or was there taken under your supervision by your subordinates, pictures, fingerprint pictures of every inch of the kidnap ladder? A. I don't have direct knowledge of that.

Q. Well, that is your department, isn't it? A. That is correct.

Q. Don't you know, Captain, whether any fingerprint photographs were taken of the kidnap ladder? A. I have not seen them myself. I do know that some photographs were taken.

Q. Were taken. And they were taken section by section, inch by inch, that is, the camera was started at the bottom of the rail and moved up inch by inch until the entire rail had been exposed to fingerprint camera film. That is true, isn't it? A. That I can't say.

Q. But you have heard of fingerprint photographs being taken of the kidnap ladder? A. Yes.

Q. Who would take those? A. Lieutenant Sjostrom, or Sergeant Kelly.

Q. One of the two men in your department? A. Or Sergeant Cooper, I meant to say.

Q. Sergeant Cooper, who was also in the same department? A. That is correct.

Q. He is in Identification too, isn't he? A. He is an identification operator.

Q. Now, to go back to the communication with Dr. Hudson, didn't you have some communication, letters back and forth with Dr. Hudson on the subject of fingerprint photographs of the ladder? Does that help you any? A. I have had communications with Dr. Hudson at various times, but on that particular subject, I can't say that I have ever had any communications with him.

Q. Do you recollect a letter from Dr. Hudson in which he asked you to furnish him with copies of the photographs taken of the ladder? I mean now, fingerprint photographs? A. He might have written such a letter, I couldn't say.

Q. And do you remember your replying to that letter saying— A. I might have replied, if I received such a letter.

Q. Well, do you remember whether you did or not, Captain? A. I don't remember directly, Mr. Fisher.

Q. Now, Captain, do you remember whether or not there was a duplicate ladder made very quickly after the kidnaping? A. That I would not have knowledge of.

Q. Whose department would that be in? A. It would be a part of the investigation.

Q. Investigation. Is that a separate head of your, separate division of your force? A. It wouldn't come under my jurisdiction at all.

Q. Well, do you know whose jurisdiction that would come under? A. Well, it would be under the direct supervision of the person in charge of the investigation.

Q. Of that particular investigation, you mean? A. Of that particular investigation.

Q. And who was that in this case, Colonel

Schwarzkopf? A. Colonel Schwarzkopf and Captain Lamb.

Q. And Captain Lamb?

Q. Do you know how many times the ladder was entirely taken apart for examination purposes? A. I do not.

Q. In your presence was it ever taken apart? A. It was not.

Q. You never took it apart personally? A. I have not.

Q. Do you know whether or not it was taken apart at the time these fingerprint photographs were taken? A. I don't know.

Q. If you know, was the kidnap ladder ever taken to the Englewood barracks of the New Jersey State Police force? A. I don't know.

Q. If you know, where was the kidnap ladder taken March the 2nd, 1932? A. That I do not know.

Q. Are you a fingerprint man at all yourself, Captain? A. Not a fingerprint expert.

Q. Have you any knowledge of it? A. I have some knowledge.

Q. And which end of it, taking the prints or identifying them? A. Just a general knowledge of the subject.

Q. You personally never made any inspection of the Lindbergh home for fingerprints, did you? A. I did not.

Q. Was there any other member of your force who did attempt to take fingerpints in the kidnap room except Sergeant Kelly? A. That I do not know, directly Sergeant Kuebler also worked in conjunction with Sergeant Kelly.

Q. Now did you call into this investigation during the progress of it independent fingerprint men, that is, investigators outside your department? A. No.

Q. Well Dr. Hudson made an examination of the ladder, didn't he? A. I have no knowledge of how Dr. Hudson came into the case whatsoever.

Q. Well, you do know that he examined the ladder? A. I have no knowledge that he had any official connection with the investigation.

Q. Official or unofficial, Captain, you know that he made an inspection of the ladder, don't you? A. I don't know that he made an inspection of the ladder. I know that he was present on the premises, but I do not know that he made any inspection on the ladder.

Q. Do you know what he was doing there on the premises? A. As the information came to me, and I can only give you what came to me, he came there to demonstrate a process of fingerprinting which he had discovered or about which he had gained knowledge himself.

Q. And your subordinates—on wood, wasn't it, a process adapted particularly to taking prints from wood? A. I don't know that it particularly applies to wood, but it can be used on wood.

Q. And didn't he demonstrate that process to your subordinates, Kuebler and Kelly? A. I don't know that he demonstrated it, but I do have information that he gave them some information on the subject.

Q. Well, and before Dr. Hudson had been there, the report you received from your subordinates was that there were no fingerprints on the ladder: that's correct, isn't it? A. (No answer.)

Q. Wasn't it said by Kelly and Kuebler that there were no readable prints on the ladder? A. That was the report, yes.

Q. And after Dr. Hudson was there, the report was that there were some readable prints on the ladder: isn't that correct? A. I don't believe Dr.

Hudson examined the ladder himself by that process.

Q. Don't you know whether or not Dr. Hudson was able to develop and to bring out fingerprints on that ladder, fingerprints of a readable nature? A. I don't know whether Dr. Hudson did that or not, but it is my impression that he did not.

Q. Well, after Dr. Hudson had come down there, on the 13th or 14th of March, you did get information from your subordinates that there were then apparent on the ladder prints which were readable, didn't you, Captain? A. Not definite information that there were prints which were readable; that there were a great many smudges and marks on the ladder, which was only evidence of the fact that a number of people had during that time handled it.

Q. Some of those prints could be identified, couldn't they, Captain, and were identified? A. Yes,

Q. That is true, isn't it? Now, what have you to say, Captain, as to the life of a fingerprint on a piece of wood?

Mr. Wilentz: The Captain is not—

A. I would not—

Mr. Wilentz: —a fingerprint expert.

A. —testify on that subject.

Q. However, you are in charge of that department? A. That is correct.

Q. Did you meet Dr. Hudson personally, Captain? A. Yes, I know Dr. Hudson.

Q. And how did you meet and where did you meet Dr. Hudson? A. I think the first time I met him was in New York.

Q. And who presented you to him if you remember? Was it the late Justice Minturn of the New Jersey Supreme Court? A. It was not.

Q. Did you see him on his visit to the Lindbergh home on the 12th or 13th of March? A. I did not.

Q. You didn't see him then?

Mr. Fisher: That is all, Captain, thank you.

Cross Examination by Mr. Wilentz:

Q. Between the 1st day of March, 1932, and the day that Dr. Hudson came, that ladder had been handled by a great number of people, hadn't it? A. Yes, it had.

Q. So that during that period a great number of fingers and a great number of hands had handled it? A. To such an extent that the examination would hardly be considered of any value from an identification standpoint.

Mr. Wilentz: That is all, Captain, thank you.

Re-Direct Examination by Mr. Fisher:

Q. Just a minute, Captain, on that point. Do you know, as a matter of fact, Dr. Hudson developed or caused to be developed some 500 fingerprints from that ladder? A. I do not know that.

Q. And don't you know as a matter of fact, that they have all been identified at the moment with some possible exception of possibly 20 or 30? A. I know that that is not the fact.

Q. You know that that isn't true? A. Yes.

Q. Well, you do know, don't you, that some

of the prints that Dr. Hudson brought out by his process were later identified? A. Yes.

Q. Yes. A. But—

Q. So there were some actual prints on there?

Mr. Wilentz: But what, Captain, go ahead, finish it.

A. I will qualify that this way, that I don't know about the prints Dr. Hudson brought out by his process, because I am of the impression that Dr. Hudson did not do the work.

Q. Well, prints brought out as a result of the use of a process presented to your office by Dr. Hudson? A. Yes.

Q. Now, as a result of that, prints were brought to light, weren't they? A. Yes.

Q. And some of them could be identified? A. There were a few which could be identified.

Mr. Fisher: Yes, that is all Captain.

Mr. Wilentz: That is all, Captain.

(Witness excused.)

Mr. Fisher: Colonel Schwarzkopf.

H. NORMAN SCHWARZKOPF, recalled as a witness in behalf of the defendant.

Direct Examination by Mr. Fisher:

Q. Colonel Schwarzkopf are you the commanding officer of the New Jersey State Police? A. I am.

Q. And as such, were you actively in charge of the Lindbergh investigation? A. I was.

Q. From the night of March 1st until the present moment? A. Yes.

Q. And all activity in the State Police in connection with the case has been under your direct control? A. Under my general supervision.

Q. Under your general supervision. You have been responsible for the issuing of orders and for the conduct of the investigation? A. Yes, sir.

Q. Who is the next active officer in command of this investigation, if there is any such person? Who is the next man in line who has been on this job from the start to the present time? A. Captain Lamb.

Q. Now, as a matter of fact, Colonel, you have taken an unusual interest in this case because of its importance, haven't you? A. I have.

Q. And you have given unusual attention to it? A. I have.

Q. Colonel, was there a duplicate ladder built, a duplicate of the alleged kidnap ladder built by your force? A. There was one built; I don't know whether it was our men who built it or not; I have forgotten.

Q. But you had a ladder built that was supposed to be an exact duplicate of the kidnap ladder? A. We did.

Q. Was it built two or three sections? A. Three sections.

Q. The full three sections. Where is that ladder now? A. That ladder is at our training school now.

Q. Could you produce that here? A. We can.

Q. What was the purpose of building a duplicate ladder? A. Experimentation.

Q. Along what line? A. Along any line that

might reveal anything that would be of information to the investigation.

Q. At any time during the investigation was that ladder displayed to a person who was engaged in the investigation, independent of your organization, as the original kidnap ladder? A. No, not that I know of.

Q. Was it ever submitted to the Jersey City Police as the original ladder? A. No.

Q. Or to the Department of Justice? A. No.

Q. Those men had access to the original ladder at all times, is that so? A. The original ladder was always available.

Q. Was the duplicate ladder made so far as possible of exactly the same material as the original ladder? A. So far as possible, yes.

Q. So that it was the same both in appearance and in the material of which it was made, is that correct? A. Yes, I believe so.

Q. Were there any experiments made at the Lindbergh house with that ladder? A. There were.

Q. With that ladder against the wall of the house? A. It was.

Q. And in that experiment, Colonel, how many sections were used? A. Two sections.

Q. Two? Two sections? A. Two sections.

Q. Never three sections? A. Yes, it was also put together with three sections.

Q. Then experiments were made at the Lindbergh house with three sections of the ladder stood against the Lindbergh wall, is that correct? A. Yes, I believe so.

Q. Why was an experiment made with three sections when you are of the opinion that two sections were used in the kidnaping? A. Because we tried every possibility with the ladder.

Q. You found, as a matter of fact, didn't you,

Colonel, when you put three sections up against the right hand side of the window, that the shutter opened directly on the third section of the ladder? A. Yes.

Q. That's true, isn't it? A. We did.

Q. So that with three sections of the ladder against the wall it would have been impossible, or virtually impossible, for a man to have stepped into the Lindbergh bedroom, is that correct, because of the shutter swinging in their face? A. The shutter would swing against the ladder.

Q. So that you then went back to experimenting with two sections of the ladder, is that right? A. That's right.

Q. And you found that came against the house at a point about 30 inches below the window sill of the kidnap room window, is that correct? A. Approximately.

Q. And did you in your experiment set the base of the ladder in exactly the same place that the ladder mark was in the ground on March 1st? A. Yes, sir.

Q. Was that spot preserved in some way, so that it was protected? A. The holes were in the ground and they stayed there for some time afterwards.

Q. How deep was the hole in the ground, Colonel? A. I should judge about two inches deep.

Q. About two inches. Now, was there any mud, Colonel, on the rounds of the kidnap ladder, alleged kidnap ladder, when it was first discovered? A. As I remember the report—it is a little bit vague in my mind now—there was mud on the rungs; yes, sir.

Q. On all the rungs? A. There was mud on the rungs. I don't remember the detail.

Q. There was mud on the rungs, but you can-

not say which rung or how many? A. Yes, sir, I cannot remember the details.

Q. Now, Colonel, isn't it a fact that when this ladder was first found you had some difficulty in determining which was Section 1, which was Section 2 and which was Section 3? A. The two sections that were together, that is, that were held together with the dowel pin, it was quite evident what their relative positions were.

Mr. Wilentz: A little louder, Colonel, please.

A. (continuing) The third section would not fit on the bottom of the ladder, and therefore it was very evident where the third section went.

Q. Did it fit on the top? A. On the top, yes, sir.

Q. It fit there at the time it was found? A. Yes, sir.

Q. Now when the ladder was found, Colonel, it was found separated in that way, isn't that right, the two sections were fastened together? A. Yes, sir.

Q. Now did you have that ladder photographed with a fingerprint photo camera, the kidnap ladder? A. At what time?

Q. Any time after it was found? A. Yes, later it was.

Q.Some time during the month of March, was it? A. I believe it was the latter part of March.

Q. And it was photographed, Colonel, inch by inch? A. Not necessarily.

Q. Well, was the entire picture taken? A. The camera in this instance would be placed over any prints that seemed to be prints of value, and those photographs would be taken.

Q. Well the side rails, for instance, the six side rails, were they photographed entirely? A. I am

not sure about that. Whoever had processed the ladder and was taking the prints can give you that in detail.

Q. Do you know who that might be, Colonel, Kuebler or Kelly? A. It would either be Sergeant Kuebler or Trooper Kelly.

Q. Would they operate the camera, too? A. Yes, they would.

Q. And if those pictures were taken as you say they were, they would still be among your records, Colonel? A. They would be.

Q. And they could be produced here? A. They can.

Q. Will you produce them for me tomorrow, please? A. We can.

Q. Approximately how many exposures were there on the ladder, how many pictures taken of the ladder altogether? A. I'd have to check on the prints.

Q. If I should suggest about 1200 would that seem to be about right? A. No.

Q. Too many or too few? A. Too many.

Q. Too many. How many square inches of lumber are there in the ladder, do you know, Colonel? A. No, I do not.

Q. If I should suggest about 5,000, would that be approximately right? A. I'd have to figure it up before I could tell you how approximately right it was.

Q. Will you do that for me too, please? A. I will do that.

Q. Now, Colonel, was such an experiment as this made: Was the ladder placed against the building and various of your men sent up and down the ladder? A. Yes, sir.

Q. And what was the purpose of that? A. The purpose of that was to see at approximately what

weights the ladder would hold the men going up and down.

Q. Now you refer to the duplicate ladder? A. To the duplicate ladder.

Q. This ladder, of course, being broken wasn't used in the experiment, was it? A. No, it was not.

Q. And was it also for the purpose of ascertaining how far in the ground a man at a given weight would drive the bottom of the ladder? Maybe I don't make myself clear in that. A. I don't—

Q. What I mean is this: the night you say the hole in the ground was approximately two inches? A. About that.

Q. Now, the test was made and I assume it was made very quickly with the ground in about the same condition. Was there any test made to see how heavy a man would have to be or how light he could be to drive the bottom of the ladder two inches in the ground? A. No. The holes that were there were the holes that were used in the experiment.

Q. You put them right in the same holes, you didn't move an inch to one side or another, or make an experiment to see what weight would force the ladder down in the ground two inches? A. No.

Q. Then in making your experiment to test the weight, you used two sections of the ladder: is that correct? A. That is correct.

Q. And to what height did two sections of the ladder extend in feet? A. Oh, approximately 13 feet.

Q. Thirteen? A. Approximately thirteen.

Q. Each, each section? A. No, the sections were around six—

Q. Six and a half? A. —foot eight inches, something of that sort.

Q. So it extended, the ladder went up the wall approximately 13 feet? A. Approximately 13 feet.

Q. And at what weight did the similar ladder, the duplicate ladder, break? A. Approximately 180 pounds.

Q. 180 pounds? A. (Nods head.)

Q. Approximately 180? A. (Nods.)

Q. And how many times did you make that test, more than once? A. As to the breaking of the ladder?

Q. Yes. A. No, just once.

Q. Just one time? A. The ladder was broken the one time.

Q. And on that one occasion an approximate weight of 180 pounds broke it; is that correct? A. That is correct.

Q. Do you know how much the Lindbergh baby weighed at the time of its kidnaping? A. About thirty pounds.

Q. About thirty pounds. So that a person coming down the ladder following the theory you were working on, with the thirty pound baby in his arms, would weigh about a hundred and fifty pounds, is that correct? A. Not necessarily.

Q. Well, you say there was a total of about a hundred and eighty? A. That's correct.

Q. You mean that his position on the ladder would make some difference? A. No; that would give you a range not of the hundred and eighty minus the thirty, but with a man at a hundred and eighty pounds it broke; at a hundred and seventy pounds, approximately a hundred and seventy pounds, it did not break. Therefore, at the weight of a hundred and eighty or above, the normal presumption was that it would break. So that a man up to a hundred and seventy or possibly a hundred and seventy-five pounds could

have gone up, but with the added weight it would have broken when he came down.

Q. But the fact remains, Colonel, that it did break at a hundred and eighty pounds. A. Yes, sir.

Q. That's true, isn't it? A. Yes.

Q. No matter what the normal expectancy might be, it did break at a hundred and eighty pounds. A. Yes, sir.

Q. And it didn't break at less than that. A. No, it did not.

Q. And you didn't put more weight than that on there to see how much more than that it would take on another try; it broke at a hundred and eighty pounds, that's correct, isn't it? A. Yes, sir.

Q. Now, where did the duplicate ladder break? In the same place as the original? A. In the same place, yes, sir.

Q. Same place. And that's where the dowel pin— A. Yes, sir.

Q. —goes through. Incidentally, Colonel, was there any such piece of wood as the dowel pin found about the Lindbergh dwelling after the kidnaping? A. (No answer.)

Q. A three-quarter inch piece of wood that was very similar to the dowel pin, was there such a piece of wood found on the Lindbergh property? A. I don't know when you refer to. You will have to be more specific.

Q. As a matter of fact, wasn't there such a piece of wood found in the Lindbergh library? A. I don't know what you refer to.

Q. Let me ask you this: is it true that there was found in the Lindbergh library, after the kidnaping a three inch long piece of maple of the identical size and quality as that used in the dowels for assembling the ladder, discovered in a corner of

the library in Colonel Lindbergh's home by Sergeant Gardner, one of your men, and reported to you? A. I don't recall that.

Q. Did you have a report on this ladder submitted to you in writing on March the 10th, 1932, by Mr. Squire Johnson, Assistant Director of Construction, Division of Architecture and Construction? A. A report came to me from the Department of Institutions & Agencies, yes.

Q. Signed by Mr. Squire Johnson? A. I believe it was.

Q. Will you glance over that and tell me whether or not that is a copy of the report? A. I wouldn't recall that now, Mr. Fisher. I would like to compare this with our record.

Q. Will you do this: Will you bring me the original tomorrow when you come here? A. Yes, surely.

Mr. Fisher: Very good. And with that understanding, I should like to defer any further questions on that report until the Colonel has the original here and we will have more certainty about it.

Mr. Wilentz: On this business of deferring questions, if your Honor please, I think that the witness either ought to be exhausted now or not. If he wanted that report here, if he was entitled to it and wanted it, we should have had some notice about it. I have no objection, if he has a right to examine about the report, to his doing it. But are we going to pull these witnesses on and off?

Mr. Fisher: The Attorney General is perfectly right, and I have in my pocket a subpoena duces tecum, but your Honor

knows how we were taken by surprise on our witnesses, and Mr. Wilentz is right in his objection.

Mr. Wilentz: I should object to the report because I can't cross examine the report, a report by somebody else. I don't think it is admissible anyhow.

Mr. Fisher: I assumed I was paying the Attorney General a courtesy by laying it over until he could get the report. I want to be perfecty fair about it. I could examine on it now.

Mr. Wilentz: I would object to any such report now. Let's argue it. We may not have to have the report here tomorrow. Assuming the report is here, assuming counsel wants to offer it—

Mr. Fisher: That isn't the point. The point is, I suppose, there will be no objection from the Attorney General until he at least hears the question I intend to propound to the witness, and I may want to ask him questions as to whether or not this or that is true, taking my foundation of fact from a report submitted to the Colonel. That wouldn't be offering the report in evidence. It would be under a direct examination and, I feel, quite proper examination.

Mr. Wilentz: I have no objection to questions that counsel asks of the Colonel, as to whether certain things are true or not. That doesn't need to wait for the report.

I will have objection to any questions as to what this report contained.

The Court: Well—

Mr. Wilentz: For the very good reason that I can't cross-examine a report.

Mr. Fisher: You can subpoena the man who made it.

The Court: Suppose you proceed with the examination of Colonel Schwarzkopf to the extent that you are able and it may well be that you will not have to have the original report.

Mr. Fisher: That may very well be.

The Court: Suppose you proceed, Mr. Fisher.

Mr. Fisher: Thank you.

By Mr. Fisher:

Q. There was such a report submitted to you, wasn't there, Colonel? A. Yes, sir.

Q. Now, did you ascertain from that source or from any source as chief of the investigation that investigation of the ladder disclosed that it was built by a person who wielded a saw with the left hand?

Mr. Wilentz: I object to that, if your Honor please, as calling for hearsay testimony.

Mr. Fisher: Oh, no, that goes a long way from the hearsay rule, your Honor. Here is a man in charge of operations and I am now asking him as a result of being in charge, what information came to him from the people whom he employed in the investigation. That is certainly not hearsay.

The Court: I think you had better confine your examination of Colonel Schwarzkopf to what Colonel Schwarzkopf knows.

Q. Did you ascertain from the investigation conducted by you that the indications all pointed to the fact that the kidnap ladder was made by a person who wielded a saw with his or her left hand?

Mr. Wilentz: I object to that. I have no objection, if your Honor please, if I may suggest it, I have no objection to the Colonel being asked what his investigation revealed as to the ladder, but I do object to counsel suggesting to him—

The Court: Your objection now seems to be that the question is leading.

Mr. Wilentz: Yes.

The Court: Well, of course, there is merit in your objection so that Mr. Fisher will have to proceed with his examination henceforth without the objectionable feature of leading.

Mr. Fisher: Very good, sir.

Q. Will you tell me what the investigation conducted during the first ten days after the kidnaping, in reference to the ladder, disclosed?

Mr. Wilentz: I object to that, unless the investigation was by Colonel Schwarzkopf.

Mr. Fisher: He is in command of the investigation and has so testified.

Mr. Wilentz: Yes, you so stated.

The Court: If you have framed your question as to what his investigation disclosed the question is proper.

(Question repeated by the reporter as follows: "Will you tell me what the investigation conducted during the first ten days after the kidnaping, in reference to the ladder, disclosed.")

Mr. Wilentz: Providing it was your investigation, Colonel.

Mr. Fisher: Or under your direction, sir.

The Court: No. Let your question now be as to what his investigation disclosed.

Mr. Fisher: All right, sir.

A. I carried on no personal investigation of that.

Q. But you had, working under you, and under your direct supervision, you being responsible for the operators certain individuals, didn't you? A. I did.

Q. And they were answerable to you, weren't they, Colonel? A. They were.

Q. And they made their reports to you, didn't they? A. They did.

Q. Yes. And as a result of that what information came to you during the first ten days of March as to the ladder? A. A very great deal of information of a very conflicting sort. There were a number of people who reported various opinions that they had as to the ladder and most of those opinions were conflicting. It was for that reason that we referred our investigation to the Federal Department, took it to the Department of Forestry, who subsequently turned it over to Mr. Koehler.

Q. Do you want to say now, Colonel, in the first ten days of March there was so much confusion in the reports submitted by your subordinates as to this ladder that you couldn't make any sense out of them? A. No, sir, I don't say that. There wasn't any confusion— I say, a great many people came in to give us their opinions presuming to be experts along various lines from boat builders, from organ builders, from various industries and carpenters, window cleaners and various groups of people of that kind were desirous of being helpful and a lot of opinions were submitted, most of them in conflict with the other opinions.

Q. Let us confine ourselves for the moment to just such reports as came to you from your subordinates or people in the employ of the State of New Jersey, people who are making reports either under the direct supervision of you or under the supervision of other State departments to you.

Mr. Wilentz: Well, now, as to those who

made reports under Colonel Schwarzkopf's supervision I may not have an objection. As to those who made any examination and reports and who were under somebody else's jurisdiction I do object. The question is twofold.

The Court: The objection is sustained.

Q. From your own subordinates, from your own department, did you receive any information during the first ten days of March indicating that the person who made the so-called kidnap ladder wielded a saw with his or her left hand? A. Not that I recall; no, sir.

Q. Who was Squire Johnson? A. I understand that he was an employee of the Department of Institutions and Agencies.

Q. Was he asked by you to conduct an investigation? A. No, sir.

Q. Was he asked by the Governor of the State of New Jersey to do it? A. Not that I know of.

Q. Do you know whether or not he was? A. No, I do not.

Q. But the fact remains that he did submit in writing to you a report, didn't he? A. No, sir.

Q. He didn't submit a report to you? A. It was submitted, I believe, to his Department, and they submitted it to me.

Q. Well, no matter how it got there, eventually it got from Squire Johnson to you, didn't it? A. Yes, sir.

Q. And you still have it in your file? A. Yes, sir.

Q. So that to that extent it was an official report, wasn't it? A. Yes, sir.

Q. Yes. Now, from that official report did you ascertain that the person who is alleged to have

built the kidnap ladder wielded a saw with his or her left hand?

Mr. Wilentz: Just a minute. I object to the question for the very good reason, I submit, if your Honor please, that it is not material, it is not admissible, because it would be impossible for me to cross examine the report.

The Court: The objection is sustained.

Mr. Fisher: I pray your Honor will grant me an exception.

The Court: Take your exception.

(Exception allowed, and the same is signed and sealed accordingly.

THOMAS W. TRENCHARD (L. S.)
Judge.)

By Mr. Fisher:

Q. Now Colonel, was the ladder then found a well constructed ladder from a mechanical standpoint, in your opinion? A. I don't feel that I am expert enough to pass judgment on that, Mr. Fisher.

Q. Well, do you feel that you would know a good ladder from a poor one as the commanding officer of the New Jersey State Police? A. It is not a standard well built ladder, no.

Q. As a matter of fact, Colonel, you consider it a pretty poor job mechanically, do you not? A. Yes.

Q. Yes. And such a ladder as in your experi-

ence had never been brought to your attention before? A. No.

Q. Is that correct? A. It had not.

Q. It was a nesting ladder or—I don't know too much about them either, you see—it was a sectional ladder, wasn't it? A. It was.

Q. One section folding into the other or resting in the other, is that correct? A. Yes.

Q. In your experience have you noticed that type of ladder used down in the South Jersey fruit country? A. I have not.

Q. Used to put up into the top of apple trees or pear trees or other fruit trees? A. I have not seen them.

Q. Peach trees, reaching up into peach trees? A. No, not on any kind of a tree.

Q. What have you to say as to the rungs of the ladder, as to the width between rungs? Was that as you usually find them in a ladder, the space between rungs? Was it unusually long from rung to rung? A. It seemed so to me, yes, sir.

Q. Now, Colonel, at the time the ladder was found was there any paint on it anywhere?

Mr. Fisher: May we have the ladder out again, please, Captain Snook?

Mr. Wilentz: Yes; bring it out.

A. There was some paint on it.

Q. Well, what color was it? A. It was red paint.

Q. And was there anything done to ascertain the type and kind of paint that it was? A. Yes, an investigation was made on that.

Q. Submitted to the Sherwin-Williams Company, wasn't it? A. I would have to look up the reports on that, Mr. Fisher.

Q. But to some paint company? A. Yes, it was.

Q. And the reports indicated that it was a common garden variety of red paint? A. Yes, sir.

Q. Such paint as is used frequently by plumbers, mechanics of that kind: is that right? A. I would have to look at the reports.

Q. As a matter of fact, wasn't there some of the same type of paint found in the State Village for Epileptics at Skillman? A. I didn't find it. I would have to refer to the reports on that, Mr. Fisher.

Q. Wasn't there some of the same type of lumber which was found incorporated in the ladder that was found on the grounds of the State Epileptic Village at Skillman? A. I would have to look up the reports on that. I might say that it was, the report on that was not sufficiently significant to cause me to remember it especially.

Q. Now, I ask you this, Colonel: wasn't there a piece of wood found in the State Epileptic Village that had on it just such a red daub as appears on this ladder, wherever the red daub appears? (Examines ladder.) What has happened to the red daub?

Mr. Wilentz: What is it?

Q. Oh, here. Is that as it was at the time it was found? Of course— A. Yes, like it, I suppose. Yes, just about it, yes, sir.

Q. Would you say—Did you say whether or not you know that there was a piece of wood found at Skillman similar to the wood that I have just shown you and bearing such a red daub? A. I don't recall.

Q. Now, Colonel, what about the ladder as to having any marks of transportation on it? A.

Was there any oil marks or grease marks or anything of that sort on the ladder when it was found?

Mr. Wilentz: If you know, Colonel?

Q. Yes, of course, if you know. A. I don't recall in detail, Mr. Fisher; we have a number of thousand of reports.

Q. I can readily appreciate that. A. And you ask me the details of one or two of these reports, it is rather hard for me to recall.

Q. About the color of the ladder when it was found, it wasn't the shape it is in now, was it, in color, as to color? A. No, it was lighter in color.

Q. Very much lighter, and was it evenly colored? A. Yes, as nearly as I remember, it was pretty evenly colored.

Q. Now, a certainly process was used in that ladder, wasn't it, Colonel, for the purpose of picking up fingerprints, if any? A. Yes, sir.

Q. And after that process was used, was there anything else used on that ladder? A. In what way?

Q. For the purpose of cleaning up the evidences of it? A. Yes, sir.

Q. What was used? A. A chemical solution that was recommended to us was used to wash off the red marks that had gotten on there in processing it.

Q. And was it said to you that that would destroy forever any possibility of picking up additional fingerprints on the ladder? A. No, sir.

Q. It was said that it wouldn't? A. Nothing was said about that at all. As a matter of fact, as time advanced, practically all of the fingerprints had faded into the general red color on the lumber. They lasted a short period of time and

then they just faded into the wood, and no fingerprints were distinguishable as such any more.

Q. Well, did you know or do you know, Colonel, that as a result of Dr. Hudson's method, a fingerprint can be brought back out of the wood a number of months after it is placed there? A. I believe that is correct, but as I understand it, if this chemical remains on the wood, in time the whole becomes the same color, and the fingerprint is lost, and then it cannot be revived.

Q. And do you say, Colonel, that after a piece of wood is washed with a bichloride of mercury solution you can still pick up fingerprints? A. I don't know.

Q. Now Colonel, is it a fact that Trooper Kelly didn't bring back from the kidnap room a single readable fingerprint? A. There were a number of smudges and the lines and marks in them were such that they would not be of value for identification purposes.

Q. And despite the testimony of Mrs. Lindbergh and Miss Gow that they personally put the window up and put it down, and personally put the child in bed, you say that there was never turned in to you a single readable fingerprint of anyone from the kidnap room? A. Yes, sir, that's correct.

Q. Didn't that indicate to you that after the window was lowered and the child was put to bed, that someone washed the woodwork with some sort of solution? A. No, sir.

Q. It didn't strike you as peculiar that in a room where admittedly three people had been touching woodwork, not a single print was to be found? A. As a matter of fact, if I remember correctly when no finger prints were found at first I ordered that a re-examination be made and the re-examination did not disclose any readable finger prints.

Q. Now that same evening, Colonel, the evening that Kelly was taking finger prints in the Lindbergh house, or within a very short period of that time, didn't Sergeant Kelly take some finger prints down in Hopewell where there had been a safe robbery in the village of Hopewell? A. I don't remember that, Mr. Fisher.

Q. The smudges you speak of, where were they discovered, Colonel? A. Sergeant Kelly, Trooper Kelly, can give you the information on that.

Q. Do you know whether they were from the crib or from the window or the door knob? A. Trooper Kelly would have that.

Q. Kelly would know that? A. Yes.

Q. Were you present personally when the reexamination was made for finger prints? A. No, sir.

Q. Who made that, the same man who made the first one, Kelly? A. Probably, or Sergeant Kuebler, yes, sir.

Q. Now, did you meet Dr. Hudson, Colonel? A. Yes, sir, I met Dr. Hudson.

Q. At the Lindbergh home? A. Yes, sir.

Q. About when as near as you can remember, would it be about the 12th or 13th of March? A. About the 12th or 13th of March, around the middle of March.

Q. And was he working on the ladder with Kuebler and Kelly? A. I don't recall Dr. Hudson working on the ladder at all. I know that he had one or two boards. He demonstrated his method and showed how these prints could be brought out, but I do not recall Dr. Hudson working on the ladder at any time.

Q. Do you recall Kelly and Kuebler and Dr. Hudson going down into a little room, a laundry or a tub room in the Lindbergh basement where they took some prints from the ladder? Do you

remember their going downstairs into this little basement room? A. I don't recall Dr. Hudson being there. I know that most of the processing of the ladder was done down in that room.

Q. Well now, Colonel, as a result of Dr. Hudson's process, prints were developed on the ladder where no prints could be found before? A. Yes, sir.

Q. That's true, isn't it? A. Yes, sir.

Q. Can you say how many prints were developed by Dr. Hudson? A. I cannot say offhand. I would have to look that up.

Q. Several hundred? A. No, I don't believe so.

Q. If I should suggest to you 500 would you think that was too many? A. Yes, sir.

Q. And were some of the prints later identified? A. I would have to refer to my records on that, Mr. Fisher.

Q. Well, Colonel, at no time was the fingerprint of Bruno Richard Hauptman identified as being on that ladder? A. Not that I have any knowledge of.

Q. Now you discovered by Hudson's process that you could get prints where Kelly couldn't find any? A. Yes, sir.

Q. Now did you submit to him the ransom notes and ask him to fingerprint those? A. (No answer.)

Q. Did you submit to Dr. Hudson the original ransom notes and say, "Here Doctor, you have had great luck with the ladder, here are the ransom notes; see what you can do with those"? A. We did submit the ransom notes to his process.

Q. Did you submit those to Dr. Hudson? A. We were using his process on them.

Q. Did Hudson ever see the ransom notes? A. No.

Q. No.

Mr. Wilentz: I move that the "No" be stricken out.

Mr. Fisher: I caught the habit from you this morning.

Q. Colonel, a man came down from New York and he taught your men and worked with your men and where your men could find no prints, he developed, we will say, dozens—

Mr. Wilentz: Just a minute.

A. That's so.

Mr. Wilentz: Just a minute. The question has been answered on several occasions that Colonel Hudson on March 12th or 14th, with a new process, that had been developed since March 1st, made the experiment for fingerprints on the ladder and that he found fingerprints. Now that question has been answered many times.

The Court: I think that is so, Mr. Fisher, the record speaks for itself.

Q. But after that had happened the original ransom notes never were submitted to Dr. Hudson for his examination, were they? A. No, sir.

Q. No. A. It was not necessary.

Q. You say it was not necessary? A. No, sir, it was not. He had shown us his process, and under his process we processed the notes.

Q. You say that it wasn't necessary to let the man who introduced this thing to you see the notes; that's your answer, is it? A. Yes, sir.

Q. Very good. Did you process the original

ransom note with the Hudson method? A. With one of the Hudson methods, yes, sir.

Q. Well, now, as a matter of fact, Colonel, Hudson showed your men down in the basement of the Lindbergh home how to process wood for finger prints, didn't he? A. Yes, sir.

Q. And at that time he didn't do a thing about paper, did he? A. No, sir.

Q. No. A. We inquired about it, though.

Q. And yet you say that you used his method on the letters. A. He had two other methods, that he also showed us, and we processed the paper with those.

Q. Now, Colonel, did you call any finger print experts outside your department in in this investigation? A. No, sir.

Q. What about Federal finger print men? Were there any? A. I don't believe—no, there were not.

Q. Or New York State finger print men? A. No.

Q. That is, men from the New York City Police Department? A. No, there were not.

Q. Or Newark City Police Department? A. No.

Q. Nor Jersey City? A. No.

Q. So that the only finger print men that ever had a chance to examine and inspect the ransom notes for finger prints were the men from your own particular department? A. Yes, sir.

Q. Is that correct? A. Yes, sir.

Q. And it didn't occur to you that anybody else should be called in? A. We used our men on it.

Q. That's right? A. Yes, sir.

Q. Colonel, how many times was there the original kidnap ladder taken apart and put back together again, if you know? A. I do not know.

Q. To your knowledge, how many times?

Mr. Wilentz: Does counsel mean how many times he saw it put together—

Mr. Fisher: That is right.

Mr. Wilentz: —or what he heard about it?

A. I did not see it taken apart and put together.

By Mr. Fisher:

Q. Is it your impression that this rung here looked like that the night that it was picked up out in the Lindbergh home, the space in here, this ripped off in here? A. I believe not, no.

Q. You believe no? A. (Nods head.)

Q. So that somewhere along the line that change has been made in the ladder, hasn't it? A. Yes, sir.

Q. At the time it was picked up it was flush? A. I believe it was.

Q. Like this one, for instance. A. Yes, sir.

Q. What about this strip down here—has that been broken off since the ladder was here, referring now to, I guess that is rail—it isn't Rail 16. I don't know which rail it is. Referring to this rail along here in the third section of the ladder. A. The number is on there, I believe.

Mr. Pope: On the side.

Q. On Rail 17, this piece of wood that seems to be chipped out, was that that way the day it was picked up or— A. I believe not; no, sir.

Q. You think that that also has happened since? A. Yes, sir.

Q. Do you know how that happened, Colonel? A. No, I do not.

Q. Do you know where the kidnap ladder was on March 2nd in the afternoon?

Mr. Wilentz: 1932?

Mr. Fisher: '32, yes, sir.

A. I do not know where it was because I was in charge of a number of details at that time and did not see it, had no opportunity to see it then.

Q. Now, Colonel, on what occasion, on what date—Withdrawn. When did Murray Rosner first appear on the scene in this kidnaping?

Mr. Wilentz: I object to that as not being material, if your Honor please.

Mr. Fisher: It is highly material, your Honor.

Mr. Wilentz: Highly material?

Mr. Fisher: Highly, one of the most important phases of this entire case.

The Court: What is your idea on the relevancy of it?

Mr. Fisher: My idea is that I want to show that the original ransom insignia was in the possession of a man who had connections with the underworld very early in the case.

Mr. Wilentz: Before the ransom note was found?

Mr. Fisher: With your permission, sir, I will address the Court.

Mr. Wilentz: I should apologize, of course, and I do.

Mr. Fisher: Thank you, thank you, it is very gracious of you.

The Court: I think it is a material inquiry.

Mr. Fisher: We want to show this: the development here from the testimony of the witness Trendley and from many other spots in the case, from Dr. Condon's testimony that there is a vast dissimilarity in the ransom note found in the nursery and the subsequent notes. Dr. Condon, your Honor will recall, said one was a poor imitation of the other. Trendley said he could find only one little word "is" that had been used out of the ransom note. Now, we feel it is very pertinent, highly important to show who was in possession of a knowledge of the original ransom insignia, how they came about their knowledge and what they did with their knowledge.

Mr. Wilentz: After the inquiry that I tried to direct to counsel who seemed to object to it, if your Honor please, I will attempt to direct it to counsel through your Honor, which, of course, is the proper way. What I wanted to know was, so that I might be able to answer counsel, if there is an answer, is whether or not the purpose is to show the possession and the knowledge of

the symbol before or after the first ransom note was found in the Lindbergh home.

Mr. Fisher: I suppose the way, your Honor, to find what our purpose is, would be for you to withdraw the objection and let the witness say what it is.

The Court: Well, what is the present question?

Mr. Fisher: When he first met Murray Rosner.

The Court: Oh.

Mr. Fisher: And I wanted to develop that Rosner got the insignia. Now, I don't know what day it was, your Honor, and if the Attorney General will tell me—

Mr. Wilentz: I have no objection to him saying when he first met Rosner or when he first met—

The Court: No, I suppose there is no objection to that.

Mr. Fisher: I thought it was—

Mr. Wilentz: That wasn't the question.

Mr. Fisher: Read the question.

Mr. Wilentz: Answer it.

Mr. Fisher: Read it, let's read it.

Mr. Wilentz: Just a minute. I don't think we have to take up the time, if your Honor please, to bicker about that.

Mr. Fisher: I didn't think so, either.

The Court: What is the present question?

The Reporter: "Question: When did Murray Rosner first appear on the scene in this kidnaping?"

Mr. Wilentz: That's different than when did he meet Murray Rosner.

Mr. Fisher: I mean exactly the same thing, your Honor.

Q. When did you first meet Murray Rosner?

Mr. Wilentz: Well now, just a minute.

The Court: You may put that question.

Mr. Wilentz: That is a different question. I want it recorded.

Mr. Fisher: I am so sorry. I thought it was exactly the same in intent and meaning.

A. I don't recall the date, Mr. Fisher.

Q. Well, was it two days after the kidnaping or three? A. To the best of my recollection it was five or six days after the kidnaping.

Q. Five or six days after the kidnaping? A. Yes, sir.

Q. Now, did you display to Murray Rosner the original ransom note? A. I did not.
Q. Did he ever see it?

Mr. Wilentz: I object to that, if your Honor please.

Q. If you know. A. I don't know.
Q. Who had charge of the ransom notes at that time? A. Captain Lamb or myself.
Q. And do you say now that Murray Rosner never saw the original ransom note?

Mr. Wilentz: Just a minute now. The Colonel is his witness and the Colonel said that he didn't display it to him, and he doesn't know whether it was ever displayed to him.

The Court: Exactly.

Mr. Fisher: Pardon me.

The Court: Exactly.

Mr. Fisher: The Colonel said on another date, your Honor. Now I am asking him an entirely different question.

Mr. Wilentz: It is a different question as well as a different date, and that is the question I object to, whether the Colonel says that Murray Rosner never saw that; that I object to.

The Court: The witness said not to his knowledge.

Q. Was that the answer, Colonel, that to your knowledge Rosner never saw it? A. Not to my knowledge.

Q. Very good. But you say that the ransom notes were also in the possession of Lamb on occasions: is that right? A. Yes, sir.

Q. Well, Murray Rosner was up around the Lindbergh place? A. He was.

Q. And he was what you call an intermediary, wasn't he, a go-between? Wasn't he a go-between in the kidnaping? Wasn't he the man who was expected to contact the kidnapers? A. Not for the police.

Q. Did he introduce you to Spitale and Bitz? Did Rosner bring Spitale and Bitz into the picture? A. I did not meet Spitale and Bitz.

Q. Do you know whether Rosner brought them in or not? A. I do not know.

Q. Who would know that?

Mr. Wilentz: I object to that as not being material.

Mr. Fisher: It is material. It is the crux of the whole thing.

Mr. Wilentz: I submit it is the crux of nothing.

Mr. Fisher: Then let it in. Don't argue about it.

Mr. Wilentz: You are asking this witness—

The Court: Let us proceed in an orderly fashion.

Mr. Fisher: I am sorry, your Honor.

Mr. Wilentz: I object to the question if your Honor please, because it is not material, it is not competent, it is not admissible: Who would know when he doesn't know?

Mr. Fisher: He was in command of the whole investigation, sir.

The Court: I sustain the objection.

Mr. Fisher: Exception.

The Court: Take your exception.

(Exception allowed and the same is signed and sealed accordingly.

THOMAS W. TRENCHARD (L. S.)
Judge.)

By Mr. Fisher:

Q. Colonel, from time to time during the investigation did you issue written bulletins to the press? A. I did, yes, sir.

Q. And how many of those bulletins were there? A. I believe we had either three or four press releases a day during the early portion of the ingation. I don't remember how many exactly there were.

Q. And they were all issued in writing? A. Yes, sir.

Q. Now, in one of those releases did you state that you had definite evidence which would connect Harry Fleischer with the crime? A. No, sir.

Q. Did you mention Harry Fleischer in your releases? A. I probably did.

Q. Did you attempt to run Harry Fleischer down for weeks? A. We attempted to run everyone down, Mr. Fisher, that we thought might have any connection with it.

Q. That is right. You thought Fleischer had some connection with it, didn't you? A. No, sir.

Q. Well, why did you just say then you ran down anyone that might have connection? A. We tried to run down the various criminals that were known to be at large and had them account for where they were on March 1st.

Q. Colonel, did you issue a statement saying that the suicide of Violet Sharpe virtually solved the kidnaping? A. Such—I don't recall any such statement.

Q. To the press. Do you say that you didn't issue such a statement? A. I am quite sure that I didn't.

Q. Will you say positively whether you did or you did not, to the best of your knowledge? A. I cannot tell you that, Mr. Fisher. I say I am quite sure that I didn't.

Q. Well, did you feel that it did solve the kidnaping, the death of Violet Sharpe went a long way towards solving the kidnaping? A. No, sir.

Q. Then you know that you never issued any such statement? A. Yes. I say I am quite sure that I didn't.

Q. If you had no such idea, Colonel, there is no question in your mind about it, is there? A. No.

Q. No. Then why do you say you are quite sure? You are positive, aren't you?

Mr. Wilentz: Just a minute. This is Mr. Fisher's witness.

The Court: He has answered the question in all good faith.

Q. Colonel, let me ask you this: On March 2nd you were searching—or shortly thereafter, along in the month of March, for a person with a certain type of automobile, weren't you? A. Yes, sir.

Q. What type of automobile, what color? A. A dark automobile.

Q. What color? A. We had a number of colors reported to us from people who had seen cars around that section. We were looking for any dark color, and we had also had a dark blue—

Q. And a green? A. Dodge.

Q. Had you had a green? A. I believe it was. I am not positive.

Q. Did you find such a car in the home of one Chiapelli at a spot very near the Lindbergh home? A. I don't recall that offhand. I can find it in my reports.

Q. Did you find a car there hidden away under certain hay out of sight when your men got there but which was turned up by a close examination? A. There was a car found by the investigators like that.

Q. And wasn't that a green Dodge sedan? A. I don't recall that.

Q. And although it had no license plate on, weren't the tires fully inflated? A. I don't recall the details of that. I can find it in my reports, though.

Q. But there was such a car found up there very near the Lindbergh home? A. There was a car found under a haystack, yes, sir.

Q. Didn't you also check up a green sedan car abandoned on the East Side of New York which investigation disclosed had been stolen in Lake-

wood, New Jersey? A. That car was investigated, yes, sir.

Q. And in that car wasn't there a blanket and a milk bottle? A. I believe there was, yes, sir.

Q. What became of that blanket, if you know, Colonel? A. I believe there was an extensive investigation made as to the manufacture of that blanket, and of the number of thousand of those blankets that were made we tried to trace the final destination of them.

Q. Were there any finger prints taken on that car? A. I would have to refer to that report for the details on that.

Mr. Fisher: That's all, Colonel.

Cross Examination by Mr. Wilentz:

Q. Colonel, every car that you found and every clue that you found until the day of Mr. Hauptmann's arrest was carefully investigated to the best of your ability and the ability of the other agencies, were they not? A. Yes, sir.

Q. And every one of these clues were eliminated by information that came, isn't that so? A. Yes, sir.

Q. And every known criminal that had any connection with kidnaping of course you looked for. A. We not only looked for them, we sent out bulletins and tried all over the world to get a trace of them.

Q. And of course there was no criminal record on file in the United States of America of Hauptmann, was there? A. No, sir.

Q. He had come into the country illegally and therefore there was no record of it, isn't that so?

Mr. Pope: We object to that question.

Mr. Wilentz: Well, it is cross examination.

Mr. Pope: He is asking this witness to testify whether Hauptmann came into the country illegally or not; that is one part of the question.

The Court: Well, you proved that as a part of your case, didn't you?

Mr. Pope: That wouldn't be any reason why there wouldn't be any record of Hauptmann. The reason there wouldn't be any record of Hauptmann in this country would be because he hadn't committed any crime, not because he came into this country illegally. The question is this, your Honor: "And the reason you didn't find any record of Hauptmann was because he came into this country illegally." Of course that doesn't follow at all.

Mr. Wilentz: I will reframe it if there is any difficulty.

The Court: Yes. I think you had better reframe it.

Q. The criminal record of Mr. Hauptmann in Germany was not recorded in any of the agencies in this country, was it?

Mr. Pope: I object to the question as immaterial and irregular.

Q. So far as you know. A. No, sir.

Mr. Pope: I object to the question.

The Court: One moment.

Mr. Wilentz: Well, they brought out the fact that he had a criminal record in Germany.

Mr. Pope: From this witness?

Mr. Wilentz: From any witness; and counsel has gone into this man's investigation, if your Honor please.

The Court: Just read the question to me.

The Reporter: The question is: "The criminal record of Mr. Hauptmann in Germany was not recorded in any of the agencies in this country, was it, so far as you know?"

Mr. Pope: That is presuming there was a criminal record recorded even somewhere in Germany and there isn't any evidence as that.

The Court: There isn't—

Mr. Pope: As I remember, sir, the defendant said,—the defendant told very frankly on the stand the difficulties that he had gotten into in Germany.

The Court: He said he was convicted of crime there, didn't he?

Mr. Pope: What is that?

The Court: He said he was convicted of crime over there, didn't he?

Mr. Pope: Yes, but that isn't a record, that is merely his personal record of what he might have done. We are speaking now of criminal records that are held by and recorded by police departments, besides that, this is not cross examination which was gone into on the direct examination.

The Court: Well, there may be something in that. I think perhaps for reasons last indicated, the objection will have to be sustained.

By Mr. Wilentz:

Q. All right. Now, did you find any other Dodge car belonging to a man in whose garage there was found 14,000 or more dollars of Lindbergh ransom money? A. No, sir.

Mr. Wilentz: No.

Q. Now, when you took this test ladder, you built another ladder, you say, and when the two sections were up, men of different weights would go up from time to time, wouldn't they? A. Yes, sir.

Q. And it was not until a man came down with a package which, together, the package and the man, weighed 180 pounds, it was not—

Mr. Fisher: Now, that is objected to.

Q. —it was not until then that the ladder broke?

Mr. Fisher: It incorporates in the question a fact not in evidence.

Mr. Wilentz: We will see if it isn't.

Mr. Fisher: Refer to the record.

Mr. Wilentz: I disagree with the gentleman about that.

Mr. Fisher: My recollection is—I want to be very fair—

The Court: What is the question?

(Question read by reporter as follows: "Q. And it was not until a man came down with a package which, together, the package and the man, weighed 180 pounds, it was not until then that the ladder broke?")

The Court: He may answer the question.

A. At the weight of 180 pounds.

Q. What did the weight consist of, just the man, or a man and a package? A. Just the man.

Q. Coming down.

Mr. Fisher: That was my objection, if your Honor please, you see.

The Court: What is that, Mr. Fisher?

Mr. Fisher: That is what I was objecting to. Now the witness has said just what I understood his testimony to be.

The Court: Well, the water has passed through the mill.

Mr. Fisher: Over the dam.

The Court: We will proceed now. Proceed, Mr. Wilentz.

Mr. Wilentz: If your Honor please, I don't know which of us ought to go up to the head of the class.

By Mr. Wilentz:

Q. Colonel, let's get to the very serious business about this child being murdered and this ladder. You made these experiments to try to find out, if possible, in the absence of having a man arrested, to try to find out about the weight of the person that went into that room: isn't that it? A. Yes, sir.

Q. And that was the reason for the test? A. Yes, sir.

Q. Do you know—I withdraw that.

Q. And the 180 pound weight cracked the ladder broke it, didn't it? A. Yes, sir.

Q. Where did the ladder break with reference to the old ladder? A. Exactly the same place.

Q. At the junction of the two sections? A. Yes, sir.

Q. The same place practically? A. Yes, sir.

Q. Now, up to 180 that ladder, going up and down, didn't break, did it? A. No, sir.

Q. Did you actually have a man going in and out of that bedroom, that nursery, with a package, from time to time? A. Yes, sir.

Q. Did you also try that? A. Yes, sir.

Q. Did your investigation reveal how much Mr. Fisch weighed?

Mr. Pope: We object to that as not cross examination.

Mr. Wilentz: All right. If they object to it I will withdraw it.

Q. Was there any other man who was arrested or apprehended or found who owned a Dodge, in whose garage was found $14,600 and in whose bedroom was found the name and number of Dr. John F. Condon? A. No, sir.

Q. Was there any other man or any other—withdrawn.

Q. Was there any other person whose identity came to your notice who had in his garage $14,000 or more of Lindbergh ransom money, in whose rooms there was found in one of the closets the name and number of Dr. John F. Condon, who owned a Dodge and in whose attic was found a board that was sawed off? A. No, sir.

Q. Anybody else but Hauptmann? A. No, sir; no one else.

Q. Did you have any other man whose handwriting the experts reported to you was anybody's but Hauptmann's? A. No, sir.

Mr. Fisher: I would like to have that question read.

(Question repeated by the reporter.)

Mr. Fisher: I don't know that that makes a question, your Honor.

Q. Well, did the experts, did the men who the

State of New Jersey and the Federal Government, or the State of New York, or any other agency, the handwriting experts that you had gotten during all the years of the investigation, did they identify the handwriting in the ransom notes as anybody's else's except Bruno Richard Hauptmann, every single one of them? A. No, sir.

Q. You were asked about the ladder and whether or not it was a good job or not. As long as they are getting your opinion, let me get one from you. Of course you are not an expert lumber man and you are not a carpenter, are you? A. No, sir.

Q. You are a graduate of West Point, aren't you? A. Yes, sir.

Q. And during the early years of your administration and particularly 1932, March 1st, 1932, Colonel, how many detectives were there altogether in the entire State Police? A. At that time we had two detectives in each troop and a headquarters detachment of four detectives.

Q. How much would that be altogether? A. That would be ten detectives.

Q. Ten detectives for your entire troop for the State of New Jersey? A. Yes, sir.

Q. And you had to do the patrolling in the rural sections and the police work there in your department? A. Yes, sir.

Q. So that you weren't, in addition to being a graduate from West Point and superintendent of the State Police, spending your time learning particularly about lumber, were you? A. No, sir.

Q. And you are not an expert wood man. A. No, sir.

Q. And you are not a carpenter. A. No, sir.

Q. But you have been asked your opinion about the ladder. Let me ask you is it your opinion that this looks like the work of a hundred dollar a month carpenter? Doesn't this look like the work

of a hundred dollar a month carpenter? A. Well, it looked like rough carpentry work.

Q. Yes. A jeweler wouldn't build it, would he? A. No, sir.

Q. A lawyer wouldn't build it, would he? A. No, sir.

Q. A doctor wouldn't build that, would he? A. No, sir.

Q. He would have to know something about dowel pins, wouldn't he? He would have to know something about these grooves or recesses as they call them? He would have to be able to cut them out, wouldn't he? A. Yes, sir.

Q. He would have to be able to use a saw, wouldn't he? A. Yes, sir.

Q. A plane. A. Yes, sir.

Q. A chisel, a hammer, wood, nails, everything that goes with a carpenter—isn't that so? A. Yes, sir.

Q. Now, Colonel, you have been asked whether or not you have paid unusual attention to this case. The truth of the matter is, is it not, Colonel, that you have given the very years of your life since this kidnaping to try to solve it, isn't that so? A. Yes, sir.

Q. You didn't put the $14,600 in Hauptmann's garage, did you? A. No, sir.

Q. And so far as you and your department are concerned, you have done the best you could, isn't that so? A. Yes, sir.

Mr. Wilentz: That is all.

By Mr. Fisher:

Q. Colonel, any man that graduated from West Point could build that ladder, couldn't he, because you get a little manual training up there, you get

a little engineering up there? A. I don't recall any manual training at all, Mr. Fisher.

Q. Well, a little engineering. It wouldn't take a very noted engineer to figure out, to build a little recess to slip a board in, would it, in that ladder? A. No, it wouldn't.

Q. No. Any child out of high school, with a course in manual training would know that, wouldn't they?

Mr. Wilentz: Any child.

Mr. Fisher: Well, when I say child, Mr. Attorney General, we will go up to 16 or 17 years of age, to make it easy.

A. With basic training.

Q. Yes. A. That could be made, yes, sir.

Mr. Fisher: That is all.

By Mr. Wilentz:

Q. If a child knew the work of a carpenter, he could do it, couldn't he? A. Yes, sir. (Laughter in the courtroom.)

Q. You have seen me around for a couple of months, haven't you? A. Yes.

Q. And you know I couldn't build one; you know that, don't you? (Laughter in the court room.)

Mr. Reilly: Well, I think there are a lot of things you couldn't build.

A. (No answer.)

Mr. Wilentz: That is all.

Mr. Reilly: We have exhausted our witnesses that he has here today and he moves I respectfully move for an adjournment until tomorrow morning.

The Court: Mr. Reilly is stating to the Court that he has exhausted all of the witnesses that he has here today and he moves for an adjournment until tomorrow morning at ten o'clock.

Mr. Wilentz: We have no objection at all to counsel having all the time that your Honor sees fit to award for the production of every witness that they have.

The Court: We will take a recess until tomorrow morning at ten o'clock. The people will remain in the courtroom until the jury has retired.

(At 4:03 p. m. the jury retired.)

The Court: The prisoner is remanded to the custody of the sheriff. He may retire.

(At 4:05 p. m. the prisoner retired in the custody of the sheriff.)

The Court: The Court will now take a recess until 10:00 o'clock tomorrow morning.

(At 4:06 p. m. the further trial of the case was adjourned until tomorrow morning, Tuesday, February 5th, 1935, at ten o'clock.)

Opening of Twenty-fifth Day

STATE vs. HAUPTMANN

Flemington, N. J., February 5th, 1935.

TWENTY-FIFTH DAY

Present:

Hon. Thomas W. Trenchard.

Appearances:

Mr. Wilentz,
Mr. Lanigan,
Mr. Hauck,
Mr. Peacock,
Mr. Large,
For the State.

Mr. Reilly,
Mr. Fisher,
Mr. Pope,
Mr. Rosecrans,
For the Defendant.

———

(10:15 a. m.)

(The jury was polled and all jurors answered present.)

Mr. Lanigan: If your Honor please, yesterday afternoon the defense caused to be served upon Colonel Schwarzkopf a subpoena duces tecum for the production of certain records, all of which are set forth in the said subpoena.

Opening

I am desirous this morning of applying to your Honor, by the petition of Colonel Schwarzkopf, for a determination by you of the materiality of things alleged in the subpoena.

The subpoena of Colonel Schwarzkopf, a copy of which has been served upon the defense, reads as follows:

"Hunterdon County Oyer and Terminer.

"State of New Jersey, Prosecutor, vs. Bruno Richard Hauptmann, Defendant.

"On Indictment for Murder.

"Subpoena Duces Tecum.

"Petition of H. Norman Schwarzkopf.

"The petition of H. Norman Schwarzkopf respectfully shows:

"1. He is the Superintendent of the New Jersey State Police.

"2. That on Monday, February 4th, 1935, late in the afternoon of said day, he was served with a subpoena duces tecum, which said subpoena is attached hereto and made a part of this petition.

"3. That the petitioner is to be relieved from producing at the time and place mentioned in the subpoena all statements issued by him or under his authority by any State police officer or employee between the dates of March 1st, 1932, and November 1st, 1932, to the press, and any and all communications between various members of the Police Department during said dates, reports submitted to him by one Squire Johnson dealing with suspects, together with any and all books, documents, papers or files of any kind, nature or description received or issued by him or his authority

in connection with the Lindbergh investigation between the dates of March 1st, 1932, and November 1st, 1932; and all other photographs used by him in said investigation, he alleging that the request is too indefinite and uncertain, and further alleging that the materiality of the papers and documents demanded has not been shown.

"The petitioner requests that the Court of Oyer and Terminer of the County of Hunterdon determine whether or not the books and papers demanded shall be produced and exhibited."

Which petition has been duly verified and to which the subpoena is attached.

In connection with the application, I desire to call your Honor's attention to the following cases, which I believe bear on the subject. The leading case would seem to be the case of the American Power & Foundry Company against Alexandria Water Company, a Pennsylvania case, Supreme Court, reported in 70 Atlantic Reporter:

"Plaintiff in an action is not entitled under a subpoena duces tecum to have brought into court a mass of books and papers that he may search through them to gather evidence. A subpoena duces tecum must state specifically with as much precision as possible the particular documents desire, and describe any particular book named."

Going on down, quoting from the case in its pertinent parts, the Court said:

"The affidavit of notice must describe the books and papers with reasonable certainty, must allege that they are or at least that

the affiant fairly believes them to be in the possession and power of the party, and that they contain evidence pertinent to the issue. Anything in the nature of a mere fishing expedition is not to be encouraged."

"Where the plaintiff will swear that some specific book contains material or important evidence and sufficiently describes and identifies what he wants, it is proper that he should have it produced. The Courts uniformly decline to grant an application for the production and inspection where it is merely for the purpose of a fishing expedition, or where it is made to discover whether or not there is evidence contained in the documents which will be useful to the applicant, or for the purpose of determining whether he has a cause of action or a defense"—

And then Mr. Wigmore, in his work on Evidence, at Section 2200, states the rule, and the fair and proper rule upon the subject is

"A peculiarity of the subpoena duces tecum is that in the nature of things it must specify with as much precision as is fair and feasible the particular documents desired, because the witness ought not to be required to bring what is not needed, and he cannot know what is needed unless he is informed beforehand."

Then he quoted from ex parte Brown, 72 Mo. 83-93, and Carson vs. Hawley, 82 Minn. 204, and the United States rules to be found in the case of U. S. vs. Babcock, Federal Cases 14, 484, where the Federal Courts state the rule to be:

"The papers are required to be stated or

specified only with that degree of certainty which is practicable, considering all the circumstances of the case, so that the witness may be able to know what is wanted of him and to have the papers at the trial so that they can then be used if the Court shall determine they are competent and material evidence.

"An order to produce all papers concerning the matters in dispute"—and which we contend is the command in this case—"is not sufficiently specific. The papers and documents to be produced should be described with reasonable certainty and the inspection of the subpoena in this case shows that the Court below was fully justified in refusing to compel obedience to what was asked for." Possibly the best statement of the rule is to be found in the case of Hale vs. Henkel with the Court speaking of a general order to produce books under a subpoena duces tecum, says:

"Doubtless many if not all of these documents may ultimately be required; but some necessity must be shown either from the examination of witnesses orally"—and which we submit was not done in this case —"or from known transactions of these companies with the other companies implicated or some evidence of their materiality to justify an order for the production of such a mass of papers. A general subpoena of this description is equally as indefensible as a search warrant would be, if couched in the same terms."

I submit that the subpoena duces tecum which commands the production of papers, newspaper accounts between the 1st day

of March and the 1st day of November, 1932, is vague, it is uncertain and indefinite and with respect to the rest of the records, the materiality has not been shown.

To take the records which the subpoena duces tecum demands would take several trucks to bring them to this court, and I submit that the application is without merit.

Mr. Fisher: May it please your Honor, we were handed this notice before we came to court at five minutes to ten and for that reason I am not prepared with a brief in the matter or prepared with citations of authorities such as the Attorney General submitted.

We say to you, sir, that we believe our position is perfectly sound for any number of reasons.

First, the Assistant Attorney General speaks of the materiality. We think that this is no time to argue whether or not the things we command are material. The time that question should be passed upon is when they are submitted to the witness and it then becomes a matter for your Honor to pass on.

I don't know under any rule where we are required in advance to discuss whether or not any given bit of testimony or any given bit of evidence is material. I apprehend the rule to be that that becomes your Honor's task. Then they are regularly submitted in the orderly course and progress of the trial.

I don't know just how we would show at this time fairly to our own case the ma-

teriality of anything, whether it is demanded in this subpoena or whether it comes in some other way.

Now as to the things we call for, whether they are specific or whether they aren't, whether they are too general in terms or not, I submit that when we say in a subpoena, "Will you please produce all finger print photographs of the kidnap ladder?" nothing can be more definite, nothing can be more certain, nothing can be more clear to the man who received the subpoena, to the Court or to the jury.

I submit that when we say, "Please produce the ladder report submitted on March the 10th by Squire Johnson," nothing could be more definite than that.

We have specified with particularity just the thing we want the Colonel to produce. I assume that Mr. Lanigan won't dispute too seriously those two items. I don't think that his general objection which he has taken goes to those two things at all. I believe that he might be willing to concede that.

Now as to the demand for all of the photographs taken of the ladder, that would seem to me to be perfectly clear, perfectly concise, to tell the Colonel what we want him to produce. We should like produced here for inspection all photographs taken of the kidnap ladder at any time from the time the ladder was found until the present time. And we submit, your Honor that it is highly material; that to my mind is one of the predominating factors in this case, the one upon which the entire determination of this case may hinge. It certainly is

clear, concise and definite; all photographs taken of the kidnap ladder. Now there is nothing indefinite in the nature of that demand.

Mr. Wilentz: We will produce those things, if your Honor please. There is no use arguing about it.

Mr. Fisher: Well, I am glad to know that.

Mr. Wilentz: We will produce those things.

Mr. Fisher: I take it that it is the newspaper reports that are in dispute; is that it?

Mr. Wilentz: A truck load of various records we won't produce. We don't know how to produce them. We don't know what is wanted. But the ladder and the pictures and all those things with reference to the ladder, he can have, and he needn't waste the time of the Court; and I know he doesn't want to.

Mr. Fisher: Well, I am handicapped a little, because I don't know just what they do want me to dispute.

The Court: Well, you have found out now.

Mr. Fisher: I haven't quite found out yet, your Honor. If they refer to the newspaper releases, why then I have this to say on that point. The newspaper release, as your Honor could determine from yes-

terday's examination of the Colonel may be of the utmost importance. He was asked a question which, if he answered it affirmatively, would put him in direct line with the theory of the defense. Now if any such document was released, if any such statement was released by Colonel Schwarzkopf over his signature, then I submit, sir, it is highly important to this defense that it be produced here so that we may see just what he had to say over his signature on given occasions. And if the question of generality comes in, I will limit, your Honor, my request for newspaper releases by the Colonel over his signature to days, starting five days before the death of Violet Sharpe and ending five days after, which certainly will do away with the indefinite part of the request. And I submit the Attorney General—I am quite sure that if we limit it to these ten days, not even one very small truck will be required to get them here. They can be carried in a brief case, I am sure.

Now, having decided that they will produce the other things I asked for, we seem to be down to that particular thing; and I submit, having limited the request to produce this man being on trial for his life, we should certainly be permitted to have the records which we insist are of great materiality to this defense; and I am willing now to limit it, sir, to the ten days immediately surrounding the death of Violet Sharpe, five days before and five days after.

Mr. Lanigan: Fortunately, if your Honor

please, I am limited to the language of the subpoena. The Attorney General—

The Court: What is that, sir?

Mr. Lanigan: I say I am limited to the language of his subpoena. This man stands in this court charged with murder. Now with respect to the specific things, the photographs, the Attorney General will concede those. With respect to the report, we concede that. But with respect to the remaining part of the record, counsel has shown nothing under the cases, and the test is their materiality; and that is a question for this Court to determine.

The Court: What you have just said relates to your objection to producing what they call the release?

Mr. Lanigan: Yes.

The Court: To the newspapers?

Mr. Lanigan: Correct, sir.

The Court: And that, you think, you ought not to be required to produce.

Mr. Lanigan: That is my contention, sir.

The Court: Because you argue that it is not material.

Mr. Lanigan: We do, sir.

The Court: That is your position.

Mr. Lanigan: That is my position.

The Court: Do I understand, Mr. Fisher—

Mr. Fisher: I didn't hear you, your Honor. I am sorry.

The Court: Do I understand you to take the position that all of the releases that have taken place in this case, upon the part of officials and others—

Mr. Fisher: Of the given official, sir, Colonel Schwarzkopf, the commander of the investigation.

The Court: I know, but I am looking at the principle of the thing.

Mr. Fisher: Oh, yes, sir.

Suppose that you were asked to produce all of the releases that you have issued concerning this case. Do you think that that would be material to the State?

Mr. Fisher: I think there is a vast difference, sir. I have no official connection with the State Police of New Jersey. These reports were said to be the official releases of the man in command of the investigation, sir.

The Court: Suppose that you were to ask that the lawyers for the State produce here

all of the releases that they have issued. Do you think that they would be material?

Mr. Fisher: No, I think that would take—

The Court: Where is the materiality?

Mr. Fisher: The materiality is this, your Honor: here is a man upon whom we make a demand, who is, according to his own testimony, in sole charge of the investigation conducted by the State Police of New Jersey into the death of Charles Augustus Lindbergh, Junior.

The Court: Yes.

Mr. Fisher: We take the position that anything that man says is an official communication, in line of duty, and for that reason competent now to be presented to this jury. That is our position, sir.

The Court: Well, I have indicated to you that I am inclined to think that these releases, without a showing of more, are not material. I am inclined to think that and unless you can make it apparent that there is something in some statement that has been made by Colonel Schwarzkopf, that he said to the press—are these releases supposed to have been to the press?

Mr. Fisher: Yes, sir.

The Court: Unless you can show that there is something specific that Colonel

Schwarzkopf said to the police, which is material for you and the defense, I shall have to deny this motion as the matter now stands. That is, I am treating your subpoena as a motion.

Mr. Fischer: Yes, sir. Well, may I just say this, your Honor: I have known of the motion for less than ten minutes. May I reserve the right to submit to your Honor some law on the subject if I am able to find time to dig it up?

The Court: Oh, yes.

Mr. Lanigan: Any time that suits the convenience of counsel.

The Court: Oh, yes.

Mr. Fisher: Thank you very much.

The Court: Well now, gentlemen, I suppose we are ready to proceed.

Mr. Reilly: I think in just about a minute, your Honor.

Mr. Reilly: Moses, take the stand.

PHILIP MOSES, sworn as a witness on behalf of the defendant.

Direct Examination by Mr. Reilly:

Q. Moses, what is your business in New York? A. Taxi business.

Q. How long have you been a taxi driver? A. About eight years.

Q. Were you a taxi driver in 1932 and '33? A. Yes, sir, '32 only.

Q. '32? In New York? A. Bronx, New York.

Q. What do you do for a living now? A. Unemployed.

Q. Were you in the neighborhood of St. Raymond's Cemetery on April 2nd, 1932? A. Yes, sir, Saturday night.

Q. Were you on your taxicab A. Yes, sir.

Q. What time did you start work that day? A. About 6:30 or 7:00 o'clock at night.

Q. Where did you keep your car? A. 1840 East Tremont Avenue, Mayflower Garage.

Q. That is the Bronx, too, isn't it? A. Yes, sir.

Q. How long had you kept it there? A. About three or four years.

Q. Now, on this particular night, I want you to tell the jury the different calls that you can remember you had up to the time you arrived at St. Raymond's Cemetery. A. I only remember about two calls; that's all I can remember previously.

Q. Well, do you remember getting to St. Raymond's Cemetery? A. Yes, sir; positive.

Q. What time? A. After eight o'clock.

Q. After eight o'clock? A. Yes, sir.

Q. It was dark, wasn't it? A. Not very dark.

Q. Do you remember what street you came through? A. Yes, sir.

Q. As you approached St. Raymond's Cemetery? A. Yes, sir; Waterbury Avenue and Balcom Avenue. Balcom Avenue goes right through the cemetery.

Q. Is that the street that goes through the cemetery? A. Yes, sir.

Q. Do you recognize St. Raymond's Cemetery

from this photograph (showing photograph to witness)? A. Yes, sir; there is Whittemore Avenue right here.

Q. Whittemore Avenue, you are pointing to on the photograph, Defendant's Exhibit 32 for Identification.

Mr. Reilly: I now offer it in evidence.

Mr. Wilentz: Let me see it, please.

The Court: There seems to be no objection.

(Defendant's Exhibit D-32 for Identification, aerial view of St. Raymond's Cemetery, received in evidence and marked Defendant's Exhibit D-48.)

Mr. Wilentz: Tell us when it was taken after a while, Mr. Reilly. Mr. Reilly will supply us with the date some time later, when he finds out when it was taken and, as I understand, this is an aerial view.

Mr. Reilly: Yes. I can state now for the record that it was taken on or about the 1st of December, this year.

Mr. Wilentz: '34?

Mr. Reilly: Yes.

Mr. Wilentz: Taken on or about the 1st of December, 1934?

Mr. Reilly: Yes.

Q. Now, this street, that cuts the center of the cemetery? A. That ain't the street that cuts the center of the cemetery.

Q. Is that the road there; is that the main gate (indicating)? A. That street don't cut through the cemetery right there.

Q. What is this here, I am pointing to a road-
10 way in the cemetery. A. You cannot show it on this map here, where I was.

Q. Well, you were to it. A. You can't show it on the map. The map don't show it. The map don't show it.

Q. Was it to the upper part or the lower part? A. I came through here and then the back way.

Q. You came through a street back here? A. Waterbury Avenue.

Q. That would bring you, you say, around to
20 the rear of the cemetery? A. The rear part of the cemetery.

Q. Now, is there a road that runs through the cemetery? A. Yes, sir.

Q. Not shown on this photograph? A. Not shown on that photograph.

Mr. Reilly: I think you had a picture with that road.

Mr. Wilentz: Yes.

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Mr. Reilly: May I have it, Captain?

Q. Well, now, I show you State's Exhibit 175, a picture of a road running through, alongside of St. Raymond's Cemetery. Do you recognize that road? A. There is a road there. That is the road all right. The road turns right through. Well, it wouldn't show the other house where I was but that is the road all right. The road goes through
40 the cemetery.

Q. This is the road that goes through the cemetery? A. No, this road here.
Q. This road here? A. It cuts right through.

Mr. Wilentz: Pointing to Whittemore Avenue.

The Witness: It passes Whittemore Avenue, crosses Whittemore Avenue.

Q. Well, now, were you on a road in the cemetery? A. Yes, sir.
Q. Whether it is shown on the maps or not shown on the maps, you were on the road that cuts through the cemetery? A. Yes.
Q. Is that it? A. Yes.
Q. Is that it? A. On both sides of Balcom Avenue, it is the same street, cuts right through the cemetery.
Q. Well now, as you came through that road of St. Raymond's Cemetery, April 2nd, 1932, what did you see there? A. Well, first I met, three fellows hailed me, I got a telephone call at Westchester Square and three—and I answered the call, the call was to go down to Balcom Avenue and Waterbury Avenue. Before I got to Tremont Avenue and Waterbury Avenue, I happened to notice a green car, a brand new green car, the lower part is dark green, the upper part is a shade or two lighter. In the meantime I happened to get a pain in the side (witness puts hand over heart), so I said to myself—

Mr. Wilentz: No, no, just a minute, please.

The Witness: What?

Q. Tell us what you did, not what you said to yourself.

Mr. Wilentz: Tell us what you did.

A. So I drove down three blocks south to Balcom Avenue, three fellows hailed me. Now, can I give the number of them, I don't know the members.

Q. No. A. How am I going to distinguish them?

Q. Well, distinguish them any way you please; you were there. A. Well, make it one, two and three. The men were facing me, east or west, and I made a righthand turn facing west. No. 2 come over to me and he says—

Mr. Wilentz: Just a minute. Never mind what No. 2 said to you.

Q. We don't want anything that anybody said. What did he do? A. Well, he spoke to me.

Q. All right. A. This one fellow.

Q. What did you do? A. Well, don't you want to know what he said to me?

Q. No, you can't say what they said; it is against the rules. Now tell us what you did. A. Well, they jumped, they had a huddle and after that, after they got through with the huddle, they jumped in my car.

Q. They got in your car, did they? A. Yes, sir, three of them.

Q. Where did you drive? A. Drove them two blocks past the entrance of the gate, near Eastern Boulevard, one block, Scribner Avenue, something like that.

Q. The gate of what? A. The gate of the cemetery.

Q. What cemetery? A. There is a road there.
Q. What cemetery? A. St. Raymond's.
Q. All right. Now tell us what else did you do? A. And before I stopped, they jumped out of my car and they met a fourth man.
Q. Where? A. At Scribner Avenue or street.
Q. How near is that to the cemetery? A. Two blocks away.
Q. Then what did they do? A. They got in another huddle.
Q. Then what did they do? A. They jumped in the gray car and I made a turn and I started in shoving the car right back to the other side of the cemetery.
Q. Was the gray car stalled? A. No, sir.
Q. Did you push it? A. I pushed it.
Q. And where was the gray car when you started to push it? A. On Scribner Avenue, on Balcom.
Q. And how near is that to the cemetery? A. Two blocks.
Q. And that was about what time on Saturday night, April the 2nd? A. Oh, it was after eight.
Q. After eight? A. Yes, sir.
Q. Now how did you come to be a witness in this case?

Mr. Wilentz: Well, I object to that as not being material, if your Honor please.

The Court: Well, I—

Mr. Reilly: It will be asked on cross examination.

Mr. Wilentz: Well, if he is asked on cross examination, then I suppose counsel can inquire.

The Court: Yes. You may ask him.

A. I reported to the police.

Q. Where? A. 43rd Precinct.

Q. When? A. A couple of days before the World's Series ball game between Detroit and the Cardinals.

Q. When was that? A. Well, I can't mention the date of the game.

Q. What month, please? A. October.

Q. What year? A. 1934.

Q. Last year? A. Yes, sir.

Q. Was that after the arrest of Hauptmann? A. Yes, sir.

Q. Was it the arrest of Hauptmann that brought this incident to your recollection? A. Yes, sir.

Q. Then after you remembered what you had seen and what you had taken part in, you then went to the police, did you? A. Yes, sir.

Q. And eventually you found yourself here in Flemington? A. Yes, sir.

Q. And talked to counsel for the defense? A. I spoke to them, I give my—

Q. Yes or no. A. Yes.

Q. And asked an opportunity to testify as to what you knew? A. Yes, sir.

Q. And that's what you are here for? A. Yes, sir.

Mr. Reilly: You may take the witness.

Cross Examination by Mr. Wilentz:

Q. Is that your signature, Mr. Moses? Is that your writing (showing book to the witness)? A. Yes, that's my writing.

Mr. Wilentz: I offer it in evidence, this page, his writing.

Q. How long have you been in Flemington?
A. What?
Q. How long have you been in Flemington?
A. Two weeks.

The Court: That signature seems to have been offered in evidence.

Mr. Wilentz: That page.

The Court: Is there any objection?

Mr. Reilly: I don't see how it is competent or material.

Mr. Wilentz: It is his writing.

By Mr. Wilentz:

Q. This you wrote since you have been to Flemington? A. Yes.

Mr. Wilentz: So I offer it in evidence.

Mr. Reilly: I don't see how it is competent.

The Court: Do you object to it?

Mr. Reilly: Yes, I do, sir. The mere fact he writes something in an autograph book—

The Witness: I had no subpoena. I can write my name any time I please.

Mr. Wilentz: Sir?

The Witness: I say I can write my name any time I please.

Mr. Reilly: May we have a ruling, your Honor?

The Court: Yes. I desire to be informed as to how it is that this writing is material.

Mr. Wilentz: Yes. If your Honor please, you just asked about his anxiety to be a witness. If your Honor please, we want to show how he characterized himself in this case by a writing since he has been to Flemington, with reference to this case, and I think maybe, if your Honor may look at it—

The Witness: What date was that?

Mr. Wilentz: You wrote it—

The Witness: I wrote it afterwards.

The Court: Never mind. I am talking to the Attorney General now.

Mr. Wilentz: In which he characterized himself as the—

Mr. Reilly: I object to any—

Mr. Wilentz: I am not going to tell him what he characterized himself. That is why I want to offer his writing. The jury is entitled to more than listen to the man.

They have a right to know the type of witness he is and we offer that as evidence of the type of witness, his own writing.

Mr. Reilly: A man's writing or what he might write in an autograph book shouldn't be held against him because I think a great many people in the court room during this trial have—and I am looking at some of them—written their names in autograph books and they may have put on the top "To a good friend," or something like that without ever knowing the person at all, simply a form of salutation. If they are going to hold that against us, we will all have to plead guilty.

The Court: Of course, I can't make this out. (Laughter.)

Now, if the people can't remain quiet so that I can properly conduct this case I shall clear this court room. I don't want to do it, but I certainly will do it. I do not want to be interrupted.

(Conference of counsel was held with the Court out of hearing of the jury.)

Mr. Wilentz: All right. Will you stamp this page?

(The page was received in evidence and marked State's Exhibit S-292.)

Mr. Wilentz: Just take it out of it, so we won't be burdened with it.

Mr. Reilly: Can we stipulate, General, that this is not his book?

Mr. Wilentz: We are going to take the page out and say it is not his page.

Mr. Reilly: But it is not his book.

By Mr. Wilentz:

Q. Now, you said you were a taxi driver, I think? A. Yes, sir.

Q. What other businesses have you been engaged in? A. Many businesses.

Q. Well, give us some of them, please. A. Newspaper business—

Q. What kind of newspaper business did you do? A. Newsstand.

Q. What else? A. That is the only business I have been in.

Q. That is the only business you have been in? A. Yes, sir.

Q. Have you followed any professions? A. What do you mean, professions,—working?

Q. Did you do any other—Did you do anything else for a livelihood besides the newspaper business? A. Yes, sir.

Q. What? A. Worked down in Wall Street.

Q. What doing? A. Runner.

Q. What else? A. Plumber's helper.

Q. What else? A. Farmer.

Q. What else? A. There are many more—How many do you want more?

Q. Sir? A. How many more do you want? Do you want more?

Q. I don't want any more. I just want to know; I just would like you to answer the question. Have you been an actor? A. What?

Q. Have you been an actor? A. Amateur.

Q. An amateur actor. Are you a dancer? A. Yes, sir.

Q. An amateur dancer? A. Yes.

Q. Are you a radio broadcaster, commentator? A. I am no radio broadcaster.

Q. Did you broadcast from Flemington when you came here? A. I talked over the radio, yes. I talked before.

Q. In an iron cage down here on Main Street? A. No, sir.

Q. What sort of a cage was it? A. No cage at all.

Q. Well, what was the contraption that you got into? A. A regular hookup.

Q. A regular hookup. And you broadcast about this case, didn't you? A. No, sir.

Q. But you did broadcast? A. Did broadcast, yes.

Q. You know, of course, that there was no broadcast at all; it was just a make-believe: you know that, don't you? A. Yes; that part is all right.

Q. Yes. You found that out, didn't you? A. I know it.

Q. Did you impersonate anybody over the radio? A. Yes, sir.

Q. Who did you impersonate? A. Will Rogers. (Witness brushes hair down over forehead.)

Q. Did you put your hair down like that when you were broadcasting? A. No, sir.

Q. Oh, you wanted to show us how you did it, is that it? A. No, sir.

Q. Are you an amateur or a professional? A. I said an amateur.

Q. Are you an adagio dancer, too? A. What?

Q. One of those dancers that throw people around? A. No.

Q. Are you a part of the act that is thrown around? A. No, sir.

Q. Have you written a song about the trial? A. What's that?

Q. Have you written a song about this trial? A. Written a song about the unemployed, a beer song.

Q. A beer song? A. Yes, sir.

Q. Have you written a song about this trial? A. No, sir.

Q. Now, we will go to that cemetery for just a minute.

(Witness is shown Exhibit S-174.)

Q. (Continuing.) Now, just to be a little helpful, this is Whittemore Avenue. Of course you haven't seen this map before, have you? A. No, sir.

Q. Have you been in this court before today? A. Yes, sir.

Q. Were you here when this map was up on the board? A. No, sir.

Q. And this then is Balcom Avenue, I think you referred to Balcom Avenue. A. Balcom Avenue, yes, sir.

Q. Now, you see, it shows Balcom Avenue, doesn't it? A. Yes, sir.

Q. Then there is Waterbury Avenue that you talked about. A. Right, correct.

Q. Waterbury Avenue is about a square block away from Whittemore Avenue. A. Yes, sir.

Q. So that— Oh, yes, here is East Tremont Avenue. A. Yes, sir.

Q. So that the cemetery is bounded by East Tremont Avenue on one side, Whittemore Avenue on another side, Balcom Avenue on another

side and in here is Scribner Avenue, is that right? A. Scribner.

Q. That's the one you referred to? A. Yes, sir.

Q. Now, will you show me one road that goes through St. Raymond's Cemetery? A. Yes, sir, right there, Balcom Avenue.

Q. Well, that passes— A. It goes right through the cemetery.

Q. Just a minute, please. On this map it shows that it passes the— A. Well, it goes right through it. This is Balcom Avenue right here.

Q. That is the street you mean then? A. Yes.

Q. Balcom Avenue is the main street, you mean? A. Right. Goes right through.

Q. You don't mean that little lane right through the two portions of the cemetery? A. No, sir. Balcom Avenue goes on both sides.

Q. Is there anything else that separates the cemetery into two parts outside of Balcom Avenue? A. That's the only one that I know of.

Q. You are fairly familiar with the Bronx and St. Raymond's Cemetery? A. Yes, sir.

Q. And the only thing that separates one part of the cemetery from another is Balcom Avenue, is that right? A. I don't know about separate. I know that is the only road I went through.

Q. The only roadway or pathway or anything of any dimension at all that would be noticeable is Balcom Avenue? A. Balcom Avenue, yes, sir.

Q. As a matter of fact, you know Whittemore Avenue, don't you? A. Yes, sir.

Q. That is the street that runs down? A. Yes, sir.

Q. And isn't there a lane that leads from Whittemore Avenue right through the cemetery making two distinct sections of the cemetery? A. What do you mean by that?

Q. Isn't there a lane that leads ten feet in

width, approximately ten feet in width— A. From where?

Q. Which separates one portion of the cemetery from the other portion, running from Whittemore Avenue right through? A. Well, that is the one I am talking about. Whittemore Avenue hits right into, into Balcom Avenue.

Q. Yes. Whittemore hits into Balcom Avenue? A. Correct.

Q. Take a look at that little driveway there, that separates one portion of the cemetery from the other. A. Well?

Q. Or is that the end of the cemetery there? A. I can't—

Q. This is Whittemore Avenue? A. This is Whittemore Avenue.

Q. Up there is Tremont? A. What?

Q. Up there is Tremont, Whittemore running into Tremont, this little lane? A. I got nothing to do with that.

Q. You have nothing to do with it? A. No, sir I wasn't there.

Q. You weren't where? A. I wasn't there. I was—this is Whittemore Avenue. Show me a street with Balcom Avenue and I will show you where I was. I just showed you on the map.

Q. We will get away from where you were and come down to this pathway. Did you ever see this pathway before? A. There is plenty of pathways.

Q. Did you ever see that one, shown in this photograph, Exhibit S-175? A. Well, I have been away from there two or three years and I don't remember that place.

Q. Well, if you don't remember it, that's all right. You don't remember any pathway, is that it? A. There is a couple of pathways in the cemetery.

Q. Do you remember this particular one that is shown on S-175? A. Well, to tell you the truth, they have builded it up lately, the last two years they have builded the whole thing over.

Q. This is a picture of the cemetery three years ago. Will you take a look at it now. You see the hedge there, don't you? A. Yes.

Q. Did you ever see that hedge? A. I didn't see it.

Q. You never saw that hedge; and you never saw that areaway or pathway or roadway there, did you? A. Not on—well, I couldn't say about that.

Q. Well, if you couldn't say, say so. A. I couldn't say anything about Whittemore Avenue; I haven't been there since I went to the cemetery. In the Summertime we used to take them over to the cemetery and ride through there. I am talking about Balcom Avenue; that's what I am talking about.

Q. But I am talking about this little pathway and roadway there. A. Well, if it is there—If it is on the picture it must be there.

Q. That's right. A. the pathway.

Q. That's right. But you don't remember seeing it, do you, Mr. Moses? A. What?

Q. You don't remember seeing that pathway? A. I am not acquainted right there now, at the present time.

Q. Will you do me the kindness to answer the question. Do you remember ever seeing that pathway shown on picture S-175? A. Well, they have made—they have builded it up, or whatever they have done with it I don't know. If you show me a picture—

Q. They have builded it up, no matter what they have done with it, eh? A. (No answer.)

Q. Well, all right. A. As far as I am concerned, I wasn't there.

Q. Do you impersonate anybody else besides Will Rogers? A. What do you say?

Q. Do you impersonate anybody else besides Will Rogers? A. No, sir.

Q. Only Will Rogers. You are a specialist, are you, on Will Rogers? A. No, sir.

Mr. Wilentz: All right. That's all.

Q. Oh, have you any receipts for the things you purchased while you have been in Flemington? A. What? Yes, sir.

Q. You took receipts for the— A. Yes, sir.

Q. Got them with you, have you? A. Yes, sir.

Mr. Reilly: I object to it as incompetent, irrelevant and immaterial.

Mr. Wilentz: We will show this is competent, if your Honor please. We expect to show this is competent.

The Witness: Why, here is the receipts, the doctor's receipts.

Q. Anything else besides doctor's receipts? A. Yes, sir.

Q. Sir? A. Yes, sir.

The Court: Well, in view of the statement of the Attorney General that he proposes to connect this up, do you press your objection?

Mr. Reilly: Well, I will see what he is going to offer.

The Court: All right.

A. I haven't got them with me.

Q. Well, let me ask you this, Mr. Moses: Did you get these receipts from the trades people in Flemington in order to present them to the defense for payment? A. No, sir.

Q. I see. A. That is my own money I am using.

Q. Now, the closest—didn't you make that statement to the various trades people? A. That what?

Q. That you wanted the receipts so you could get the money back? A. I wanted the receipts to show I am spending my own money and I have got proof here right in my own pocket.

Q. All right. Now, sir, the closest you were to that cemetery that night was two blocks away, is that right? A. What is that?

Q. The closest you were to that cemetery, St. Raymond's Cemetery that night was two blocks away? A. I went through the cemetery.

Q. Balcom Avenue? A. Yes, sir.

Q. You still say that goes through the cemetery? A. Yes, sir.

Mr. Wilentz: I see. All right, sir, that is all.

Re-Direct Examination by Mr. Reilly:

Q. This page from the autograph book, was a book that you signed for some person outside in the street? A. Yes, sir.

Q. It was not your book? A. No, sir.

Mr. Reilly: That is all.

Mr. Wilentz: That is all.

Mr. Reilly: Mrs. Muller.

MARIA MULLER, sworn as a witness on behalf of the defendant.

Direct Examination by Mr. Reilly:

Q. Mrs. Muller, turn this way, please, so we can hear you. A. Yes, I will.

Q. Where do you live? A. 2701 Marion Avenue, Bronx, New York.

Q. And you are married? A. Yes.

Q. You live there with your family? A. Yes, I do.

Q. And you are some relative of Mrs. Hauptmann, is that correct? A. Yes.

Q. What relative are you? A. Mrs Hauptmann is my aunt.

Q. Now, do you remember being at Mrs. Hauptmann's house on the 26th of November, 1933? A. Yes.

Q. Where did Mrs. Hauptmann live then? A. Well, she lived then in the same apartment where she lived in September.

Q. What is the address? A. Oh, I,—gosh.

Q. What is the street? A. Needham Avenue, 222nd Street.

Q. How near do you live to her? A. It is about, with a street car, it usually took me a half hour when I went with the street car and with the bus.

Q. Now, on April 2nd, 1932, or rather, November 26th, 1933, when you were in Mrs. Hauptmann's house who else was there? A. Well, when I came in the afternoon my aunt was alone, and about half past three a fellow by the name of Paul Vetterle from my home town came and about four o'clock Mr. Hauptmann came. He was in Hunter's Island. And after that Isidor Fisch came.

Q. Now, Paul Vetterle, you say, came from your home town in Germany? A. Yes, he bought a present for my girl. That is why he came to see me in my aunt.

Q. And how many times before that had you seen Isidor Fisch? A. Oh, I should say I saw him probably every time I was in my aunt's house.

Q. About how many times had you seen him before that night? A. Maybe once a week.

Q. How long before that had you seen Paul? A. Well, I saw him before he left for Germany.

Q. When was that? A. Well, he was out during the summer. He was quite some time out.

Q. During the summer he was in Germany? A. Yes.

Q. Then he came back to this country, is that correct? A. Yes.

Q. And you say he brought you a present? A. Yes.

Q. Who from? A. From my mother.

Q. And he brought it up to your aunt's house? A. Yes.

Q. Did he give it to you that night? A. Yes, he gave it to me.

Q. What was the present? A. It was a knitted dress and a little—it is very hard to say it.

Q. Well, say it is in German; maybe we can translate it. A. Kleine hausmutter. It is a gold chain with a little medalion with a picture from my mother.

Q. How long did you stay there, Mrs. Mueller? A. Well, I guess it was till about 9:30 or ten o'clock.

Q. And during the hours, ten o'clock, the time you went out of the house, and four o'clock, when the defendant Hauptmann came in, did he leave the house at all? A. No, he didn't leave the house.

Q. When you left did you leave with anyone? A. Yes.

Q. Who? A. Paul Vetterle and Mr. Fisch.

Q. And did Hauptmann go out with you? A. Oh, yes, he always took me home.

Q. Did he take you home that night? A. Yes.

Q. How did he take you home? A. We went in to Ryder Street Road to White Plains Avenue.

Q. Did he take you home in the automobile? A. Yes.

Q. Now, do you remember December the 2nd, 1933, a party at which they were saying good bye to Fisch before he sailed for Europe? A. Yes, I do.

Q. Were you at that? A. Yes, I was.

Q. Now will you tell us, please, who else was there? A. Mr. and Mrs. Wallenberg, Mr. Schussler, Mr. and Mrs. Kloppenburg, Mr. and Mrs. Hauptmann and myself.

Q. Were you there before Fisch arrived or after he arrived? A. No, I was there before.

Q. What time did Fisch arrive? A. I guess Fisch arrived about seven-thirty or eight o'clock.

Q. Did you see him when he arrived? A. No, I was in the bedroom.

Q. Did you see how long he stayed? A. Yes.

Q. What time did the party break up? A. Oh, it was quite late; it was about, I should say, two or three o'clock.

Q. Did you go down to the boat when Fisch sailed? A. No.

Q. Do you know when he sailed? A. I guess he sailed on the 6th or 7th of December.

Q. The following week after the party, is that correct? A. Yes.

Q. Did Mr. Hauptmann have a nice home there? A. Oh, yes, he had a nice plain home.

Q. How did Mr. Hauptmann treat his wife? A. Oh, Mr. Hauptmann was a very nice man.

Mr. Wilentz: I object.

A. (Continuing.) I mean, he was good to his family; he was a very respectable man. We had no complaints.

Mr. Wilentz: I move that that be stricken out, if your Honor please.

The Court: Yes, I think I will have to strike that out, Mr. Reilly.

Mr. Reilly: The inference has been raised here, that because of some woman, Hauptmann was not the devoted husband or true husband that he was expected to be.

Mr. Wilentz: That is Mr. Reilly's inference, your Honor please. The testimony speaks for itself.

Mr. Reilly: The learned Attorney General was specific in asking the defendant about a woman named Henckle, and cast the inference that there was something that might be drawn from it by the jury, that he was not true and loyal to his wife.

Mr. Wilentz: Let me say this, if your Honor please: Mrs. Henckel got into this story because it was our understanding that she introduced Fisch, whose name they brought into the case, to this defendant and in pursuance of that we followed, not what we did, but what the defendant did, and if

they want to say that it is an inference because he stopped there mornings and had coffee, as he admitted, that is up to them.

The Court: I see nothing in the case that would make what Mr. Reilly is trying to get particularly significant, but I am inclined to think that if he desires to inquire of this witness whether or no Mr. Hauptmann treated his wife in an affectionate manner, he may do so.

Mr. Wilentz: Well, he did. The thing I objected to was her statement that he was respectable.

The Court: Well, that is—

Mr. Wilentz: I move that be stricken out.

The Court: That is why I struck it out.

Mr. Reilly: Your Honor will recall that the Attorney General did ask Mr. Hauptmann about these visits in the mornings.

The Court: Yes.

Mr. Reilly: When Mrs. Henckel's husband was not at home.

The Court: Yes.

Mr. Reilly: "Did you tell your wife this and that?" An inference might be drawn—

The Court: Perhaps so.

Mr. Wilentz: Well, he answered.

The Court: I am taking care of that by giving you permission to ask whether or no Mr. Hauptmann treated his wife in an affectionate manner, but I think it ought to be reasonably confined.

Mr. Reilly: I shall confine it.

Mr. Wilentz: That has already been asked.

By Mr. Reilly:

Q. Now, did Hauptmann treat his wife with respect and kindness and affection? A. Yes.

Mr. Reilly: I think you may inquire, General.

Cross Examination by Mr. Wilentz:

Q. Did you know Mr. Hauptmann before he came to the United States of America? A. No, I didn't know him before.

Q. You knew nothing about him, did you? A. No.

Q. And on the night in November, 1933, there was a gathering at the house—Well, you people came together on November 26th, 1933—you remember the night that he took you home? A. Yes, I do.

Q. About what time did you leave the house? A. About 9:30 or 10:00 o'clock.

Q. About 9:30 or ten? A. Yes, probably later.

Q. Is it possible that it might have been earlier? A. No.

Q. Couldn't be earlier? A. No, it couldn't be.

Q. 9:15, couldn't be that? A. No.

Q. It would have to be somewhere between nine-thirty and ten? A. Yes.

Q. All right, Mrs. Muller, you are a niece of Mrs. Hauptmann's, are you not? A. Yes, I am.

Q. Was there a party at the house that night? A. Well, it was—I don't call that a party—it was just a few people.

Q. But it wasn't a party, was it? A. Well, they called it a party here.

Q. But you said yes, they called it a party here, but it wasn't a party there, was it, Mrs. Muller? A. Well, that is the difference. Some people understand a party between two and three.

Q. Well, when you were asked on many occasions whether or not they had a party on his birthday, you said no: isn't that the fact? A. Because I told Mr.—

Q. Not because. Please answer the question. A. I called Captain Apple in The Bronx.

Q. Will you first please answer the question, and then if you want to explain it we will have no objection. On many occasions since Mr. Hauptmann's arrest, and you were asked whether or not there was a birthday party at Hauptmann's home on November 26th, 1933, every time you were asked until you got here today, you said No, isn't that right? A. Well, I still say—

Q. No? A. No.

Q. You still say No; all right. But some people call it a party and you don't; is that it? A. Yes, that is it.

Q. Yes, that is all right. Now, your husband wasn't there, was he? A. No, my husband was working.

Q. You have discussed this with your husband since, haven't you? A. Well, I don't know.

Q. Didn't your husband say to you that you came home at six o'clock that night? A. My husband was—he works sometimes till twelve o'clock at night; he was not in when I came home.

Q. Yes. But that particular night, Mrs. Muller, is it not a fact that your husband was home about six o'clock or so and you came home and met him in there and served him his meal? A. Oh, no.

Q. Now, let's see. Now, you asked about your uncle's birthday, that is, Mr. Hauptmann, the defendant, isn't that so? A. Uh-huh.

Q. And do you remember being asked these questions: "Your uncle's birthday was a week after your aunt's?" And your answer was: "Yes, it was the Sunday after my aunt's." Is that right? A. Yes.

Q. And you were asked, "Did it fall on a Sunday?" And you answered, "Yes." A. Yes.

Q. And you were asked: "Did you have a party up there that Sunday?" And your answer was "No" Right? A. Yes.

Q. And then you were asked: "Was there anybody up there?" And your answer was, "No." A. Yes, but I told Captain Apple in Bronx right after I came out, after Mr. Breslin had first examined me, I said to Captain Apple, "I was thinking over, it just comes in my mind that Isidor Fisch and Paul Vetterle,"—I told Captain Apple—

Q. And then you were asked later again: "Was anybody else there that day?" And your answer was "No." Do you remember that? A. I don't remember.

Q. And then you were asked: "Was your husband up there?" And you said "No." A. (No answer.)

Q. And do you remember also saying that no-

body drove you home that night: do you remember that? A. Oh, that is a lie.

Q. That is a lie too?

Q. Was there anybody else in the car with you when you drove home besides Hauptmann? A. Mr. Fisch and Paul Vetterle and my girl.

Q. Were you asked this question, "When he drove you home on these different days you were up there did he at any time have anyone else go in the car with you and him?" And your answer was "No." Is that correct? A. I couldn't remember that. I don't think that question was asked me, but I couldn't remember the question.

Q. You cannot remember it. Now, with reference to the time you remember being asked this question: "What time did he take you home that night?" And your answer was, "I cannot say any different than the other nights." "Question: Your recollection is that it was around nine or nine-thirty." "Yes." Is that correct? A. Well, I said it was later. I said it was around nine-thirty or ten o'clock.

Q. Did you answer this question at that time: "Your recollection is that it was around nine or nine-thirty." "Yes." A. I don't know.

Q. You don't know. Were you asked on another occasion: "You have no definite recollection as to just what time you left there?" And your answer was "No"? A. I don't know.

Q. You don't remember that? A. I don't remember that.

Q. You wouldn't say that you didn't say that when you were questioned? A. No, but—

Q. But today when you come into court, you are positive today that it couldn't have been a minute before 9:30, that it was between 9:30 and 10 o'clock? A. Yes.

Q. Yes. And that is after you have heard the

story of Miss Cecilia Barr, that Mr. Hauptmann was down there around 9:30? A. I never knew what time she said.

Mr. Wilentz: That is all.

Re-Direct Examination by Mr. Reilly:

Q. Well now, it is a fact, isn't it, that the Bronx, where the Hauptmann live, or do you know how far the Hauptmann home is from the Sheridan Square Theatre in Greenwich Village, New York? A. That's quite a ride.

Q. Do you know where Greenwich Village is? A. Yes, I can remember where it is.

Q. Is it not down within a few blocks of the New York entrance of the Holland Tunnel? A. Uh-huh.

Q. Is that right? A. Yes.

Q. And this house of the Hauptmanns in the Bronx is at the extreme end of the Bronx, is it not? A. Yes, it is.

Q. Close to the Yonkers line, is that right? A. Yes.

Q. So it is the distance between Greenwich Village and almost to Yonkers in miles, is that correct? A. Yes.

Q. It has been testified to here by a witness that it is at least 15 miles difference between the Sheridan Square Theatre and Hauptmann's house; do you agree with that?

Mr. Wilentz: Well now, if she knows.

A. Yes, I should think so. I know I would have some ride down there.

Q. You would have some ride, wouldn't you? Now on a Sunday night, Sunday afternoon when

you visited the Hauptmanns, November 26th, 1933, that was a visit, wasn't it? A. Yes.

Q. You called it a visit? A. Yes.

Q. I suppose a party to you is when there are a great many people there. A. Yes.

Q. There was a party for Fisch, wasn't there? A. Yes.

Q. And you made a visit to Hauptmann on November the 26th, is that the way you testified? A. Yeah.

Q. Now when you were up in the Bronx with this man that asked you some questions, when was that? A. Oh, they came a couple times to my house and then they took me down to Mr. Breslin.

Q. And you are sure you told Captain Apple when you came out? A. Yes, I did.

Q. That Paul Vetterle and Fisch were there? A. Yes, I told them.

Q. Now you were not here yesterday when Vetterle testified, were you? A. No, I was in New York.

Q. And is this the first time you have been down here in Flemington? A. Yes, except—

Q. Since the trial opened? A. Except for an hour or two.

Q. You have not been sitting in the court room listening to any testimony, have you? A. No, never.

Q. Now, did you suggest the name for the baby? A. Yes, I did.

Q. What name did you suggest? A. Well, I said "Mannfried is a nice name," because my cousin on the other side, his name is Mannfried.

Q. And then they took your suggestion and called the baby Mannfried? A. Yes, because I am the baby's godmother.

Q. You are the baby's godmother.

Mr. Reilly: I think that is all.

Re-Cross Examination by Mr. Wilentz:

Q. How many times have you been to Flemington, Mrs. Muller? A. I was here with the baby on the 3rd of November, went back home again, and I was out—

Q. How many times about, all together? A. I should say about four times.

Q. Four times. Your husband isn't here is he? A. No.

Q. He isn't here. A. No.

Mr. Wilentz: That is all.

By Mr. Wilentz:

Q. Oh, your husband would know what time you got home that night, wouldn't he? A. Well, he came home in the morning.

Q. I see. A. He was working nights.

Mr. Wilentz: All right.

(The witness left the stand.)

Mr. Reilly: Mr. Tartell

JOSEPH J. TARTELL, sworn as a witness in behalf of the defendant.

Direct Examination by Mr. Pope:

Q. Mr. Tartell, where do you live? A. 251 West 15th Street, New York City.

Q. How long have you lived there? A. Since 1930.

Q. And are you familiar with the Sheridan Square Theatre? A. Yes, sir.

Q. And are you a frequent visitor there or patron? A. Yes, sir.

Q. And during the past three or four years how many times have you been there approximately, a week? A. Well, I couldn't say how many times but I go there quite often.

Q. Quite often? Well, more than once a week or once a month? A. Sometime once a week, sometime twice a week.

Q. And do you know Celia Parr, the lady— A. Not personally.

Q. B-a-r-r, the lady that sells tickets at the window? A. Not that I met her personally, but I know her as the cashier at the window.

Q. You knew her as the cashier at the window. Now, what personal experience have you had with Miss Barr, with reference to change at the window during the past two or three years?

Mr. Wilentz: Just a minute. I object to the question as not being material.

The Court: I don't see how it is, Mr. Pope.

Mr. Pope: This is merely an introductory or preliminary question, which is leading up to the material part of the investigation of this witness. This particular question has no particular materiality or bearing, except that it leads up to that which we are going to introduce.

The Court: Well, why not go at it the right way?

Mr. Pope: Yes. No, I think that this is the proper way to do it, I think that we should show how this occurred, what led up to the occurrence. The State has been doing that right along.

Mr. Wilentz: Well, is it to have any connection with November 26th, 1933?

Mr. Pope: No, I—

Mr. Wilentz: I won't press—

Mr. Pope: We are covering more dates than that. The purpose—this witness is called for the purpose of telling to this jury just how good Miss Barr's recollection of faces is and how well she can remember people.

Mr. Wilentz: Therefore, I move,—I not only object to the question, but I move that the observation of counsel be stricken from the record.

The Court: Well, perhaps he was justified in making that observation.

Mr. Wilentz: Yes.

The Court: Because of the questioning of the Court. I will exclude the present question.

By Mr. Pope:

Q. During the past two years—have you had

any occasion during the last three or four years to test Mrs. Barr's recollection of your face?—

Mr. Wilentz: I object to it.

Q. —her intelligence to remember you as a patron at the window?

Mr. Wilentz: I object to the question, if your Honor please.

The Court: I will sustain the objection.

Mr. Pope: We pray an exception.

The Court: You may take your exception.

(Exception allowed, and the same is signed and sealed accordingly.

THOMAS W. TRENCHARD (L. S.)
Judge.)

Q. Did you on more than one occasion experience a mistake in change which you received from Mrs. Barr at the Sheridan Square Theatre?

Mr. Wilentz: Just a minute. I object to the question.

Q. —during the past three years?

Mr. Wilentz: I object to the question, if your Honor please, for the same reason.

The Court: I will sustain the objection.

Mr. Pope: We pray an exception.

The Court: You may take an exception.

(Exception allowed, and the same is signed and sealed accordingly.

THOMAS W. TRENCHARD (L. S.)
Judge.)

Q. And during that time did you talk with Miss Barr about her ability to remember you as a patron who had been to the window on numerous occasions during the past three years?

Mr. Wilentz: Just a minute. I object to the question if your Honor please.

The Court: I will sustain the objection.

Q. As to her ability to recognize your countenance.

The Court: I sustain the objection.

Mr. Pope: May I have an exception?

The Court: Take your exception.

(Exception allowed, and the same is signed and sealed accordingly.

THOMAS W. TRENCHARD (L. S.)
Judge.)

Mr. Wilentz: May I ask, if your Honor please, since your Honor has sustained these objections, that counsel be instructed

that this line of questioning to the same purport ought not to be followed? Or is that imposing on him?

Mr. Pope: We have a perfect right to get this into the record and take our exceptions.

Mr. Wilentz: Well, I don't know. That is why I am suggesting it to the Court.

Mr. Pope: The Court may differ with us as to its materiality, and, of course, we are bound by the Court's ruling, but we have a right to our exceptions.

Mr. Wilentz: I don't think counsel has a right to repeat what amounts to substantially the same question, once the Court has indicated it is objectionable.

The Court: Well, I will see how far it goes.

Mr. Wilentz: All right, sir.

The Court: And perhaps deal with it a little later.

Mr. Wilentz: All right, sir.

The Court: I don't know how persistent Mr. Pope is going to be. Of course, he has a right to get his factual and legal positions before the Court in order to get the Court's ruling. I think he has done that already.

Mr. Pope: Yes.

The Court: Now you may proceed, Mr. Pope.

Q. I call your attention to one specific occasion and ask you if on one specific occasion which you remember during this period, you handed to Miss Barr a five dollar bill?

Mr. Wilentz: I object to the question, your Honor please. It has absolutely no materiality in this case.

The Court: I will sustain the objection.

Mr. Pope: May I suggest to the Court that what we are endeavoring to meet as proof in this case is this: This lady has been produced by the State as a witness, and she has testified that upon one single occasion this defendant came to her window and purchased a ticket, and that he handed to her a bill which was folded, I think she said, eight times, and that he handed it in to the window to her, and that she gave him change; that that was the only time she saw this man, but that she remembered him, remembered his face and identified his countenance. Now I think that if we can prove by positive evidence that under similar circumstances this lady was not able to identify another man, not able to remember his face, although she had seen him on numerous occasions, and upon occasions which should have been impressed upon her mind, that it may then present a question for the jury to deter-

mine whether or not her ability to recollect and to identify the defendant is as strong and as sure as the witness seemed to think that it was.

That is the purpose of this testimony. Now, if we may not pursue that purpose here we will abide by the ruling of the Court.

The Court: The Court excluded the question. I have no reason to alter that ruling after listening to the contention of counsel with respect to it.

Mr. Pope: May we have an exception?

The Court: Take an exception.

(Exception allowed and the same is signed and sealed accordingly.

THOMAS W. TRENCHARD (L. S.)
Judge.)

Mr. Wilentz: May I ask that the reasons outlined be stricken from the record, of the last argument?

Mr. Pope: There is no reason to strike my reasons.

Mr. Wilentz: I think so, if your Honor please.

The Court: No, I won't strike them.

Mr. Wilentz: All right.

Mr. Pope: That is all then; under the ruling of the Court we will have to withdraw the witness.

Mr. Wilentz: No questions.

(Witness leaves the stand.)

Mr. Reilly: Now may we have a five minute recess?

The Court: The Court will take a five minute recess.

(At 11:18 a. m. a short recess was taken.)

(After a short recess. The jury was polled and all jurors answered present.)

(11:35 A. M.)

The Court: Counsel may proceed.

LOUISE WOLLENBERG, sworn as a witness on behalf of the defendant.

Direct Examination by Mr. Reilly:

Q. Mrs. Wollenberg, will you face the last gentleman of the jury so that we get your voice. Where do you live, Madam? A. I am living 128 Sherman Avenue, New York.

Q. Bronx, New York? A. Bronx.

Q. You are married? A. Yes, I am.

Q. And live there with your husband and family. A. Yes.

Q. How long have you known the Hauptmanns?

A. Well, I know the Hauptmanns since they are married about three weeks.

Q. And where did you get acquainted with them? A. In the sister's house.

Q. Whose sister? A. Sophie Weden, Mrs. Hauptmann's sister.

Q. Mrs. Hauptmann's sister is Sophie Weden, is that it? A. Yes.

Q. Well, after you met them you became friendly, is that it? A. Yes.

Q. And did they visit at your home and you visit at theirs? A. Well, not right away. About—

Q. Well, some time after that? A. Yes.

Q. You exchanged visits? A. Yes.

Q. Now, did you know Hans Kloppenburg? A. I met Hans Kloppenburg around 1932.

Q. Where? A. In— In Hauptmann's house.

Q. And did you know Ernst Schoeffler? A. Yes.

Q. Who is he? A. That is the brother of Mrs. Hauptmann.

Q. And did you know a Mr. and Mrs. Heine, from Elizabeth, New Jersey, or Hein? A. I do know a family, but I don't know—I don't know them by the name.

Q. And do you know Mrs. Muller? A. I do.

Q. Mrs. Hauptmann's niece? A. I do know her.

Q. And do you know Isidor Fisch? A. Yes, I do.

Q. How many times had you met Isidor Fisch during his lifetime? A. I met Isidor Fisch about three or four times.

Q. Where? A. I met him about twice up in the stock market.

Q. Where? A. Between Lexington and Third Avenue, where Mr. Hauptmann used to go there every day.

Q. Were you in that office? A. I was in the office, yes.

Q. What were you doing? A. Well, I was on the East Side, and I haven't seen Mrs. Hauptmann for weeks, and I run up and I asked Mr. Hauptmann how Mrs. Hauptmann is getting along.

Q. In that brokerage office? A. In that, yes.

Q. And was it there you saw Fisch? A. Yes.

Q. Did you also see Fisch at Hauptmann's home? A. Yes.

Q. Were you present at the home of Hauptmann, this defendant, on December 2nd, 1933, at Fisch's farewell party? A. Yes, I was.

Q. Who went to the party with you? A. My husband.

Q. Who was at the party when you arrived? A. When I arrived there was Mr. and Mrs. Hauptmann, Mrs. Muller, Hans Kloppenburg, the couple from New Jersey where I don't know the name and that is all.

Q. Now, some time during the evening did you see Mrs. Muller, the niece? A. Yes.

Q. And did you see the man that lived in the house, Mr. Schussler? A. Yes, he came up later.

Q. Did you see Fisch? A. Fisch was the last one who came, but I didn't see him coming in. We were sitting on the living room, see.

Q. How many rooms did they have? A. Four.

Q. Now, the living room is what we call the parlor? A. Yes.

Q. Is that where the guests were seated, where you were seated when you first saw Fisch? A. Yes.

Q. But you did not see him enter the house: is that correct? A. No.

Q. About how late did you stay, Mrs. Wollen-

berg? A. Well, I couldn't—we stood there all night, my husband and I.

Q. Stayed all night, slept there. A. We slept there.

Q. Slept there. And can you tell us about what time it was that Fisch left? A. Well, Fisch left—I couldn't tell you exactly the time.

Q. Was it late? A. But quite late in the morning.

Q. Do you know when he sailed for Europe? A. Yes.

Q. When? A. I don't know the date.

Q. Well, what day of the week was it? A. But I know he sailed about a week or something.

Q. How long after the party? A. A week or something later he sailed.

Q. Sailed after the party, is that right? A. Yes.

Q. You were not here yesterday? A. No, I was not.

Q. Is this your first appearance at the trial? A. Yes.

Q. Is your husband here? A. Yes, he is.

Mr. Reilly: You may inquire.

Cross Examination by Mr. Wilentz:

Q. When you went into the brokerage office there were other people there besides Mr. Hauptmann and Mr. Fisch, were there not? A. Well, Mr. Hauptmann and Mr. Fisch was the only one I know.

Q. Yes, but there were other people there? A. Quite a lot.

Q. Yes. Now, on the night that this party was being given to Mr. Fisch, you were in the parlor when Fisch came, you said? A. Yes.

Q. Who else was in the parlor with you? A. Mrs. Muller.
Q. In the parlor? A. Yes.
Q. Yes? A. And a couple from New Jersey.
Q. Yes. A. And—
Q. Schussler? A. Schussler.
Q. Your husband? A. My husband.
Q. And Kloppenburg? A. Yes.
Q. All in the parlor? A. Yes.
Q. So that you remember this house, do you not? A. I do.
Q. Just so we make no mistake about it then, Mrs. Muller was in the parlor with you at that time? A. Uh-huh.
Q. When Fisch arrived? A. I don't know if Mrs. Muller was in the parlor. I know I was in the parlor.
Q. Well, who was in the parlor with you? That is what I want to find out. A. Oh, I am not—I couldn't say dat any more, see?
Q. Well, give us your best recollection. A. I know my husband was in there.
Q. You were in there with some people, weren't you? A. Yes.
Q. And how about Schussler? A. I don't know if Schussler was in there.
Q. And the people from Elizabeth? A. The people from Elizabeth was in there.
Q. And Kloppenburg? A. I don't know if he was in there or if he was in the kitchen, that I can't recall.
Q. Weren't you all sitting there in the parlor? A. Yes, but they went out and in.
Q. In and out? A. See, I couldn't say sure.
Q. So, a moment ago when you said Kloppenburg was in the parlor and Mrs. Muller was in the parlor and all these people were in the parlor with you when Fisch arrived, you were mistaken

about it? A. I couldn't remember any more who was in the parlor when Fisch arrived; I know I and my husband was in there, see?

Q. I see.

Mr. Wilentz: All right, Madam, thank you. That is all.

Re-Direct Examination by Mr. Reilly:

Q. Mrs. Wollenberg, did Hauptmann, when you were in the presence of Mr. and Mrs. Hauptmann treat his wife with respect and kindness and affection? A. I can only say that Mr. Hauptmann—

Mr. Wilentz: Just a minute, please. I think we are entitled to a yes or no, please.

Q. Yes, say Yes or No, please. Did he? A. Yes.

Mr. Reilly: That is all. Thank you.

Mr. Wilentz: That's all.

Mr. Reilly: Mr. Wollenberg.

OTTO WOLLENBERG, sworn as a witness on behalf of the Defendant.

Direct Examination by Mr. Reilly:

Q. The first name is Otto, is it? A. Otto.
Q. The last witness is your wife? A. Yes, sir.
Q. What is your business? A. I am a barber.
Q. In business for yourself? A. No.
Q. How long have you been in America? A. Twenty-five years.

Q. Now, Mr. Wollenberg, do you know Hans Kloppenburg? A. Yes, sir.

Q. How long have you known him? A. Since Hunters Island, since I have been there. That's where I met Mr. Kloppenburg the first time.

Q. Do you remember what year it was? A. It is about '32.

Q. Were you in the habit of going up there on your Sundays and engaging in these German sports? A. Yes, sir.

Q. With this German group? A. Yes, sir.

Q. Is that where you met Kloppenburg? A. Yes, sir.

Q. How long do you know Hauptmann? A. I know Hauptmann, I guess it must be five or six years.

Q. How long do you know Mrs. Hauptmann? A. Just as long.

Q. Did you ever meet Isidor Fisch? A. Yes, sir.

Q. How many times would you say? A. Up to the house there, twice.

Q. Whose house? A. Mr. Hauptmann's house.

Q. Did you ever meet a Mr. Schussler? A. Yes, sir.

Q. How many times? A. That's the fellow lived downstairs?

Q. Yes. A. About three or four times.

Q. Did you know Ernest Schoeffler? A. That is the brother from the Hauptmanns?

Q. Yes. A. Yes, sir.

Q. When did you meet him? A. I met him up the house.

Q. Hauptmann's house? A. Yes, sir.

Q. Did you know a Mr. and Mrs. Heine from Elizabeth, New Jersey? A. I saw a couple there. I don't know if that is their name.

Q. Well, did you see a couple there from any

particular city or state or place? A. A couple from Jersey.

Q. And do you know Mrs. Muller? A. Yes, sir.

Q. Annie Hauptmann's niece? A. Yes, sir.

Q. Now, do you remember this farewell party with Fisch, December 2nd, 1933, at Hauptmann's house? A. Very well.

Q. Did you go there with anyone? A. My wife.

Q. About what time did you arrive there, to your best recollection? A. Well, it was on a Saturday. I work an hour later, it is usually, so must have got there after ten, half past ten.

Q. At night? A. At night.

Q. What time did you finish work? A. Nine o'clock.

Q. Was your work somewhere in the Bronx? A. Never.

Q. Downtown, New York? A. All the time.

Q. Whereabouts? A. Well, I working for 25 years around Times Square.

Q. Around Times Square. Well now, when you arrived at the party with your wife, give me your best recollection as to the people that were there in the house, in Hauptmann's house? A. Well, there was Mr. Kloppenburger, and Mr. Schussler, Isidor Fisch, and Mr. and Mrs. Hauptmann, and Mrs. Muller, my wife and myself.

Q. How about the brother of Mrs. Hauptmann, Ernest? A. Yes, that is right, he was there.

Q. He was there, too? A. Yes, sir.

Q. About how long did you stay? A. Well, I slept there.

Q. Now, have you any recollection as to about what time it was Fisch went home? A. Yes, sir.

Q. About when? A. It was early in the morning.

Mr. Reilly: I think you may inquire.

Cross Examination by Mr. Wilentz:

Q. You got there about 10:30, sir? A. Yes, sir.
Q. Was Mr. Fisch there when you got there? A. Yes, sir.
Q. He was already there? A. Yah.

Mr. Wilentz: That is all. Thank you.

(Witness excused.)

Mr. Reilly: Is Mr. Heine here of Elizabeth, New Jersey?

(No response.)

Mr. Reilly: Mrs. Hoff.

BERTHA HOFF, sworn as a witness on behalf of the defense.

Direct Examination by Mr. Reilly:

Q. Mrs. Hoff, where do you live, please? A. 22 Tapscott Street, Brooklyn.
Q. Where did you live, Mrs. Hoff, in 1932? A. In 1932 I lived in 4052 192nd Street, Bayside.
Q. Did you ever live in the Yorkville District? A. No.
Q. Up around 86th Street, New York? A. No.
Q. Did you ever live in Manhattan? A. No, sir.
Q. How long have you lived in New York City? By that I mean, Brooklyn, Jamaica, Corona, or anywhere out there? A. Eleven years.
Q. Eleven years. You are married? A. Yes, sir.

Q. You live with your husband and your family? A. Yes.

Q. Now, did you spend some time on a farm of a man named Budreau? A. Yes, sir.

Q. Here in Jersey? A. Yes, sir.

Q. What year was that? A. Summer of 1931.

Q. And how long did you spend on the Budreau farm? A. Myself about four weeks, and week ends; I had my children there for about three or four weeks.

Q. Well, were the children there longer than you? A. Yes.

Q. You spent about four weeks? A. Yes, altogether.

Q. Where is the Budreau Farm? A. Mountainville, near Lebanon.

Q. Mountainville near Lebanon? A. Yes.

Q. That is in this part of the country, isn't it? A. Yes.

Q. Somewheres around here? A. Yes, it is about twelve miles from here.

Q. How did you come to go to that farm to spend the Summer? A. Mrs. Budreau wrote me a letter, I know the Budreaus ten, eleven years; that she had bought a farm in Lebanon, we should come out to visit them, so we did.

Q. How long had you known the Budreaus before you went to the farm? A. About ten years.

Q. And this was your Summer vacation you were spending on his farm? A. Yes, sir.

Q. Now, did you after leaving the farm and coming home, where did you live? A. In 103-04 Corona Avenue, Corona, Long Island.

Q. Now, Corona, Long Island, is the other side of the Queens County Bridge? A. That is right.

Q. Is that right? Queensborough Bridge? A. Right.

Q. When you get to the end of the Queens-

borough Bridge in Long Island City you can take a trolley car or an elevated to Corona: is that right? A. Yes.

Q. It is a suburb of Long Island City: is that correct? A. Yes.

Q. And it is in the City of New York? A. Yes.

Q. Is that right? A. Right.

Q. Now, do you remember being visited by Budreau and another man in the—in some part of 1933? A. Yes, sir.

Q. Were you living at the same place in Corona? A. No.

Q. Where were you living then? A. 4052 192nd Street, Bayside.

Q. Bayside is also in the City of New York? A. Yes, in New York.

Q. And a suburb? A. Yes.—

Q. Of Queens? A. Yes.

Q. About what month was it that Budreau and this man came to see you? A. October.

Q. 1933? A. Yes, sir.

Q. About what part of the month? A. About, around Thanksgiving.

Q. Well, Thanksgiving is a—are you sure it was October? A. Yes, it was October.

Q. Well, there are two holidays in October. Which holiday was it? A. It was around October, around Thanksgiving.

Q. Around Thanksgiving? A. Yes, sir.

Q. Well, Thanksgiving is in November. Thanksgiving—see if I can refresh your recollection as to Thanksgiving. Thanksgiving is always the last Thursday of November. A. It must have been November then, because I am sure we spoke about Thanksgiving.

Q. You spoke about Thanksgiving? A. We spoke about it, yes.

Q. Now, did you know the man that came with Mr. Budreau before that day? A. No, I did not.

Q. How long were these two men in your apartment or house? A. About a half an hour.

Q. What time of the day was it? A. In the afternoon, about two o'clock.

Q. Was it a week day? A. It was a week day.

Q. And was it a school day? A. It was a school day.

Q. Were any of your children there at any time during the time that these two men visited you? A. They just came in from school.

Q. Then we have it, have we, that on a school day in the afternoon, after the children had come from school, these two men visited you? A. That is right.

Q. What introduction was given to you, if any, by Budreau, concerning this other man?

Mr. Wilentz: I object to the question as not material to this cause, what somebody introduced another person as.

Mr. Reilly: I will withdraw it.

By Mr. Reilly:

Q. I show you a photograph, Defendant's Exhibit 39, and ask you if you recognize that picture. A. That is the man.

Q. Is that the man that Budreau brought to your house? A. Yes, sir.

Q. Did he give any name? A. Yes, sir.

Q. What name? A. Isidor Fisch.

Q. Now Mrs. Hoff, is there any doubt about it but what this is the man? A. No.

Q. And what did Isidor Fisch say to you in your house in October or November, 1933?

Mr. Wilentz: Just a minute. I object to that, if your Honor please, as not being material to this case.

Mr. Reilly: It is very material, if I am permitted to connect it.

The Court: I am inclined to think that it is not evidential at this time. It may be later. I don't know about that.

Q. I will ask you this: Did Isidor Fisch have any bundles with him? A. Yes, he did.

Q. Will you describe to the jury what bundles or what else he had with him?

Mr. Wilentz: I object to that, if your Honor please, as not being material to this case.

Mr. Reilly: Now, if the Court please, it is our purpose to show by this witness, if we are permitted, that certain bundles, one of which was deposited with the defendant Hauptmann, at the time of the farewell party—they tried to leave, or Fisch tried to leave the bundles, and the suit cases with this woman in October or November, 1933, shortly before the Hauptmann party; and I think it is material to show that he was in possession of those bundles, that he tried to get rid of them in other places besides with the defendant.

Mr. Wilentz: If your Honor please, unless this witness was present when this alleged bundle that Mr. Hauptmann testified to was delivered, and saw that, and

then can say that she saw the same bundle, I don't see that her testimony with reference to any bundles that some stranger, whom she had never seen in her life, and whom she didn't know, and who is now dead and can't come here to answer—I don't see that from the lips of a witness like this, who had never seen the person before in her life, testimony of this nature ought to be permitted, that some stranger attempted to leave some bundles and in that way an effort by made by the witness to confuse.

Mr. Reilly: Now there isn't—

Mr. Wilentz: I don't think it is material. It has nothing to do with whether or not that man built the ladder; it has nothing to do with the money that was found in the garage, the ransom money; certainly no effort will be made by this witness to identify the moneys; it has nothing to do with the ransom notes, it has nothing to do with the crime; and just merely to bring a person in here who had never seen some man that has been mentioned, and who is alleged only by Hauptmann to have left the package, without any description at all, that package never having been seen by this woman in the Hauptmann home at the time it was delivered, but merely to throw into the lap of this jury the fact that some package was delivered with other packages, or offered, not even delivered, or offered by a stranger, if your Honor please, I take it is not material to this issue.

Mr. Reilly: Now, if the Court please we might just as well face the issue, after the Attorney General has summed up to the jury. During the day I am prepared to prove, if my witnesses come from New York, that the man who jumped over the cemetery wall was Isidor Fisch, that the money was handed to Isidor Fisch, that Isidor Fisch from that date on not only approached one, but many persons in New York, trying to dispose of this money. I am going to trace every connection of Isidor Fisch with this money until he left on the steamer. I hope to be able to prove by witnesses when he arrived in Hamburg, his actions before the immigration authorities in Germany. I am going to trace everything I can to show that Isidor Fisch and not this defendant received the money from Dr. Condon, tried to dispose of it, tried to leave it not only with this woman but other people, finally left it with Hauptmann, and the development of the innocence of this defendant.

Mr. Wilentz: I can find no fault, if your Honor please, with counsel's statement that he is going to try to do it, and I have no objection to his declaration here for the benefit of the jury either, because he is going to be called upon to prove his statements.

The question right now is—and I feel very confident for the State that there will be no such credible proof—with reference to whether or not a person whom she had never before in her life seen came to that house that day and whether or not she saw him with some bundles.

Mr. Reilly: He was with a man she had known for eleven years and on whose farm she had spent the summer.

Mr. Wilentz: That is all right.

The Court: I am inclined at this moment to exclude the question. I don't think that there is any connection in this case that would justify the admission of this evidence at the moment. I think perhaps I ought to say you may be able to produce evidence here, you seem confident that you will be able to do so, which would justify the admission of this testimony, but I will let that come later. I think I will exclude it.

Mr. Reilly: Then may I withdraw this witness at this time and hold her in reserve?

The Court: Yes, you may.

Mr. Reilly: Will you step down, Mrs. Hoff, please, and we will call you later.

(Witness temporarily excused.)

Mr. Reilly: Is Agent Seykora here?

JOHN E. SEYKORA, sworn as a witness in behalf of the defendant.

Direct Examination by Mr. Reilly:

Q. You are an Agent of the United States Government? A. Yes, sir.

Q. Connected with what Department? A. The

Division of Investigation of the Department of Justice.

Q. You worked on the Lindbergh case? A. Yes, sir.

Q. And you worked alongside of Agent Sisk? A. Yes.

Q. And did you make a report to your superiors, part of which they have permitted the defense to use here? I ask you whether you recognize that as your report (showing to witness). A. Yes, sir; I did.

Q. You are familiar with the contents of this report? Do you wish to refresh your recollection? A. It has been some time since I have gone over it.

Q. Read it over, please. A. Yes, sir.

Q. After Dr. Condon disposed of the ransom money did you have a conversation with him concerning the box the money was contained in? A. I was present with other agents when that subject was discussed, it was along in March of 1934.

Q. Was a search made in the cemetery after the conversation about the box?

Mr. Wilentz: I think he said 1934, Mr. Reilly.

Q. 1934, did you talk to Dr. Condon? A. We talked to him about that subject, yes, sir.

Q. Was that the first time he was approached on that subject? A. I don't know to my own knowledge; that was the first time I talked to him about it.

Q. The first time you approached him? A. That is right.

Q. Well, was there anything said in that conversation concerning any attempt in 1932 to locate the box in the cemetery in which this money—

A. Yes, there was, Dr. Condon told us that he went back to the cemetery several days later for that special purpose to try to see if he could find the box.

Q. Several days later? A. That is my recollection, yes.

Q. He didn't say that he went back the next morning, did he? A. Not that I recall.

Q. He didn't say he took back any investigators from the Department of Justice with him, did he? A. He didn't tell me that, no.

Q. He didn't say he took back any police with him, did he? A. Yes, he did say that police accompanied him on one occasion to the cemetery, several days—

Q. The next day after the payment of the ransom money? A. I don't recall whether it was the next day or whether—it was several days later.

Q. You remember he said it was not the next day, it was several days afterwards? A. I think it was several days afterwards.

Q. Did he say when he went back several days after to find the box he was accompanied by Colonel Lindbergh? A. Not that I recall, no.

Q. To the best of your recollection? A. He did not.

Q. He said he went back several days later alone? A. No, not alone.

Q. Or accompanied by some New York police? A. And as well by Colonel Breckinridge and there were several others in the party, Al Reich was along.

Q. Did he say what time of the day it was? A. Why, I think they spent the considerable portion of the day there. I don't recall between what hours, it wasn't material at that time to us.

Q. Well, was it then that he found a footprint

on a fresh grave near the retaining wall? A. Yes, several days after the ransom was paid.

Q. Did you ever visit that cemetery? A. Yes, I have.

Q. It is an open cemetery, isn't it? A. Yes.

Q. Anybody can walk in and out? A. That is, it is, you might call it open. There are gates that are not guarded. I mean you require no pass or anything.

Q. No pass. Anybody can walk in that appears to have some relative or person dear to them buried there? A. That is right.

Q. Did Dr. Condon tell you how well he knew the cemetery? A. He didn't tell me, no, sir.

Q. You weren't here when he testified? A. Pardon?

Q. You were not here when he testified? A. No, I was not.

Q. Did you learn either from Dr. Condon or from your investigation that several members of his family have been buried in St. Raymond's Cemetery? A. Well, personally, I saw several—I remember that I saw several head stones with the name Condon on them in the cemetery, and one of the other agents that was present at this time, that we all talked with Dr. Condon, informed me at the time that I wrote the report that Dr. Condon had said that there were other Condons in the cemetery. The way he told me, as I recall, that they were relatives. And we subsequently went into that further. That is an interim report; that is it wasn't final in any way.

Q. These Condons were all buried before the 2nd of April, 1932, in that cemetery? A. Well, yes. We subsequently found out that they were not related to Dr. Condon.

Q. Well, did he also tell you that he attended many funerals in both cemeteries, Woodlawn and

St. Raymond's, while he lived in The Bronx? A. He told me he had attended funerals in Woodlawn, not in St. Raymond's.

Q. Did you examine Westchester Creek? A. What do you mean, sir, examine it?

Q. Well, I mean did you go over there and view it to see whether or not it was navigable for small boats? A. We could see a small barge pulling up the stream. We didn't go right up to the bank of the stream.

Q. Well, is Westchester Creek navigable to the East River for small boats and rowboats? A. Yes, it is.

Q. Did Dr. Condon tell you that he was familiar with the waterways surrounding New York City? A. Yes, he told us that.

Q. How near is this Westchester Creek to St. Raymond's Cemetery? A. It runs along the south boundary of the cemetery.

Q. It would be possible then, would it not, for persons to approach the cemetery by way of the creek and by way of a boat? A. It is questionable whether it would be possible at certain times or not. The mud would be quite deep along the banks.

Q. Well, assuming the tide was proper. A. That is possible up over a person's knees, I mean even in rather dry weather; it is quite muddy there along the banks at that particular point. There is swampland there that is filled in, and it is pretty swampy right up by the creek itself.

Q. It wouldn't take much depth for a rowboat, would it? A. No, but it is after you get out of the rowboat and walk; it would be difficult to navigate it.

Q. I think that's all. Oh, under your supervision did you have alienists examine Dr. Condon? A. No, sir; not under my supervision.

Q. Well, did you know of him being examined by alienists?

Mr. Wilentz: I object to it unless he was present.

Q. Under the direction of the Department of Justice?

Mr. Wilentz: Or it was under his direction, one or the other.

The Court: Well, of course this witness can only be examined as to what he actually knows.

Mr. Reilly: As to what he knows; quite right.

Q. Do you know whether or not Dr. Condon was examined by alienists under the direction of the United States Government? A. No, sir; I do not.

Q. Do you know whether he was examined by alienists under anyone's direction? A. Not so far as I know.

Q. Have you ever seen a report in your files from any agent or any official that Dr. Condon had been examined by alienists? A. No, I haven't.

Q. Have you obtained your information, have you obtained any information as to that fact from any official or unofficial source, that we may trace—

Mr. Wilentz: As to what fact?

Mr. Reilly: That Dr. Condon was examined by alienists.

Mr. Wilentz: Well, we deny that it is a fact, and I object to the question.

Mr. Reilly: Well, you are not testifying.

Mr. Wilentz: I know, but you are. That is what I object to. Counsel is saying "that fact," and I object to it because that is not the fact, so far as we understand it.

The Court: I think the examination is getting to be illegal by reason of its leading character.

By Mr. Reilly:

Q. Well, there have been many reports concerning Dr. Condon, haven't there? Yes or no. A. Yes.

Q. And the reports are made, some of them, by the Department of Justice Agents: is that correct? A. Yes.

Q. I don't assume that Dr. Condon was known to any of you agents when he first broke out in this case, was he? A. Not to me. I don't know about the others.

Q. And naturally you investigated every angle of the case, didn't you? Your agents of your department? A. I don't know as I would say we investigated every angle, no, sir.

Q. Well, didn't you investigate a man who popped up and took $50,000 and gave it over to some mysterious person over a wall or over a bush and nobody else was there but himself and the man who took the money? Didn't you examine into that?

Mr. Wilentz: I object to that question,

your Honor please. Not the question so much but the manner of the question, the terms and expressions of the question to his witness about a man that popped up. Nobody popped up at all.

The Court: Oh, well, I think I will allow the question to be answered.

A. Yes, sir, we investigated to the fullest of our ability everything that we did.

Q. Yes, you wouldn't take a man's word in an important case like this, would you, without investigation?

Mr. Wilentz: I object.

The Court: The question is objectionable. I sustain the objection.

Mr. Reilly: I respectfully except.

(Exception allowed, and the same is signed and sealed accordingly.

THOMAS W. TRENCHARD (L. S.)
Judge.)

Q. Now, in the investigation of Dr. Condon, do you know and if you don't know, say so, did you ever hear or is there any report in existence that you might know of or anyone who can come here and help us if we could subpoena him, as to whether or not Dr. Condon was ever examined by alienists for the State, for the Government, or anyone else? A. I have never heard of any such report.

Mr. Reilly: That is all, General.

Cross Examination by Mr. Wilentz:

Q. So far as you know, Dr. Condon was never examined by your department? A. No, sir, he was not.

Q. No. And you don't know whether any of us have been examined by alienists, do you? A. No, sir.

Q. Now, Dr. Condon, you will remember, didn't go to the cemetery the next day, according to his statement to you, the day after the ransom money was paid? A. That is right.

Q. You know, don't you, that Dr. Condon was flying up there in the skies with Colonel Lindbergh looking for the Lindbergh child; you remember that, don't you, the next day? A. Yes, sir.

Q. He spent the whole day up there, you will recall? A. So he said.

Q. Went up on several occasions in an airplane with Colonel Lindbergh? A. Yes, sir.

Q. And other Government men, and of course he wasn't to the cemetery then, the next day. Now, Dr. Condon, according to Mr. Reilly, discussed his familiarity with reference to the waterways and the other places in the Bronx and in New York? A. He did.

Q. The fact of the matter is, is it not, and your investigation shows, that Dr. Condon spent his entire life in the Bronx in New York, isn't that so? A. Practically so.

Q. And knew every bit of the Bronx, according to your investigation, didn't he?

Mr. Reilly: I object to all these questions as highly leading, the Attorney General testifying.

Mr. Wilentz: Well, I take it it is my—

The Court: Well—

Mr. Reilly: It is not cross examination.

The Court: I think he is merely making reference for the purposes of convenience to the testimony of Dr. Condon. He testified as to his familiarity with the Bronx.

Mr. Reilly: Yes, but not as to the waterways.

The Court: Well, I am not so sure that he did.

Mr. Wilentz: He did about Woodlawn Cemetery, St. Raymond's Cemetery, the waterways—

Mr. Reilly: No, he didn't say waterways.

Mr. Wilentz: You asked him about the Westchester waterways.

Mr. Reilly: No, I didn't.

Mr. Wilentz: Some waterways. This witness I am talking about.

Mr. Reilly: Yes, but not Dr. Condon.

Mr. Wilentz: No, I am talking about this witness, my—

Mr. Reilly: Then I think this witness

ought to tell us what Dr. Condon said, not what the learned Attorney General thinks he said.

Mr. Wilentz: I withdraw the question. I don't remember the one that was objected to, if your Honor please.

By Mr. Wilentz:

Q. Your investigation revealed, did it not, that Dr. Condon was familiar with every portion of The Bronx? A. Yes, sir; it did.

Q. And that he had spent his 74 or 75 years there; isn't that a fact? A. Yes, sir.

Q. And it revealed too that he was well known in The Bronx, isn't that so? A. Right.

Q. As a teacher, as an educator, as a lecturer, and everything else: isn't that so? A. As to the first three; yes, sir.

Q. Teacher, lecturer and educator? A. Yes, sir.

Mr. Wilentz: That is all.

Re-Direct Examination by Mr. Reilly:

Q. Did your investigation also disclose that in The Bronx he was looked upon as eccentric? A. I wouldn't say so generally, as a general term, no. I am not qualified to say whether he is looked upon as being eccentric or not.

Q. You went fully into this man's background, didn't you? A. Yes, sir.

Q. Did your investigation disclose the fact that he sometimes dressed as a woman and masqueraded around the neighborhood? A. No, sir; it disclosed no such fact.

Q. It did not? A. No, sir.

Q. Did it ever disclose to you that he was in the habit of attending Boy Scout meetings and Girl Scout meetings? A. He told us he was much interested in all such movements as that.

Q. Yes. Did your investigation show that the parents of those children objected to his presence? A. Of the Boy Scouts or Girl Scouts movements?

Q. Yes. A. No, sir; I have no such report.

Q. Did your investigation disclose why he was transferred from one school to another in lower New York? A. No, sir.

Q. Did your investigation disclose why he retired? A. You are speaking of my personal investigation?

Q. Yes. A. No, sir; it did not.

Q. Or any agents, or any report you have read? A. I can't state as to that, regarding those particulars.

Q. Then your investigation wasn't very full, was it?

Mr. Wilentz: That I object to—

A. It was full, as far as my part of it is concerned.

Mr. Wilentz: I withdraw the objection.

Q. You have said Dr. Condon was well thought of in The Bronx: Upon what do you base that? A. From conversations with numerous residents of The Bronx, with residents of standing.

Q. Well, what residents of The Bronx did you discuss this with: friends of Condon? A. We made, in the course of our investigation, it was necessary to question numerous people in The Bronx, either directly or sometimes indirectly, that we can arrive at a conclusion as to what

they think of a person that has some connection with an investigation.

Q. Did your investigation disclose that told hundreds of people and thousands of people since the time he passed the money over the railing down to the time he testified here different stories concerning his connection with it? A. He told me something regarding that himself. He made a statement in that respect.

Q. Did your investigation show from the people that he was talking about that case— A. No, we didn't talk to that many people; used hundreds or thousands of people.

Q. You never went down to Madison Square Garden, where he attends the sport events, and asked anybody their opinion of Dr. Condon, did you, as to his reliability? A. We weren't directing our investigation along that line, Mr. Reilly.

Q. What line were you directing this strange man's investigation, along what lines?

Mr. Wilentz: I object to that question about the strange man. There is nothing strange about him, except his age.

Q. Oh, no, strange to you, wasn't he? A. I wouldn't say strange, no, sir.

Q. Well, you had never met him before. A. Oh, he was a stranger, yes.

Q. He was a stranger to you. A. Yes.

Q. Now, isn't it a fact that everybody in a case of this kind is under suspicion of the Department of Justice until they are eliminated? A. We keep our minds open on all possibilities until the case is concluded.

Q. How much of an investigation of Dr. Condon did you really make? A. As much as was thought necessary.

Q. Did anybody in official life in Washington from the President, not this present President, but the President then, stay your hands toward Dr. Condon? A. Never in the slightest way that I know of, no, sir.

Q. That you know of. A. No.

Q. Were you there on March the 2nd, on Hopewell, March the 2nd, 1932? A. No, sir.

Q. Do you know what agents were there on March the 2nd, 1932? A. On March the 2nd?

Q. The day after the kidnapping, yes. A. No. It would be just offhand recollection. I couldn't state positively at this time, sir.

Q. Do you know that not an agent from the Department of Justice was permitted to see the ransom note on March the 2nd, 1932?

Mr. Wilentz: I object to that, first, that it is not a fact and secondly, if your Honor please—

Mr. Reilly: Just a moment.

Mr. Wilentz: Well just a minute now.

Mr. Reilly: I object to this "not a fact."

Mr. Wilentz: I have a right to object.

Mr. Reilly: Yes.

Mr. Wilentz: And if you don't mind I will finish my objection, please.

The Court: Well, if the question is objected to, I will sustain it, because I think it is objectionable in many phases.

Mr. Reilly: May I have an exception?

The Court: Take your exception.

(Exception allowed, and the same is signed and sealed accordingly.

THOMAS W. TRENCHARD (L. S.)
Judge.)

Mr. Reilly: That is all.

Re-Cross Examination by Mr. Wilentz:

Q. Just one thing: Your investigation showed that Dr. Condon was a patriotic citizen, interested in every civic piece of welfare in the Bronx during his many years, isn't that a fact?

Mr. Reilly: I object to that statement or eulogy of Dr. Condon in the form of a question.

The Court: Well, he is cross-examining as a result of your examination.

Mr. Reilly: Yes, but when I start to ask some questions that might be derogatory toward the witness Condon, that is objected to.

The Court: The objections were not sustained, however. The Attorney General may proceed.

A. May I have the question again, please?

Q. Is it not a fact that Dr. Condon was known throughout the Bronx as a leader in Boy Scout,

Girl Scout, and other civic movements, and as a patriotic citizen? A. Yes, sir.

Mr. Wilentz: That is all.

Mr. Reilly: May we adjourn for the noon recess?

The Court: The people will remain, let those men that are forbidden to walk out, sit down. The people will remain seated until the jury has a chance to retire. They may go and come in at 1:45.

(At 12:29 p. m. the jury retired.)

The Court: The prisoner may now retire.

(At 12:30 p. m. the prisoner retired in the custody of the sheriff.)

The Court: The Court will now take a recess until 1:45 p. m.

(At 12:31 p. m. a recess was taken until 1:45 o'clock p. m.)

(1:46 p. m.)

(The jury was polled and all jurors answered present.)

The Court: Counsel may proceed.

Mr. Reilly: Continuing the continuity of April 2nd, 1932, we call as a witness Mr. Heier.

BENJAMIN HEIER, sworn as a witness in behalf of the defendant.

Direct Examination by Mr. Reilly:

Q. Where do you live? A. 29 Court Street in Brooklyn, New York.

Q. Did you ever live in The Bronx? A. No, sir.

Q. What is your business? A. Writer, working as a cashier in a restaurant.

Q. At the present time you are working as a cashier in a restaurant? A. Cashier.

Q. Is that right? A. Yes, sir.

Q. Where? A. 110 Forsythe Street, Manhattan.

Q. What was your business before you were a cashier? A. Oh, I have been doing a number of things to earn a living.

Q. Writing? A. Writing.

Q. Did you ever work in any store or any place? A. Yes, sir, I worked for my brother.

Q. What is his line of business? A. Dine and dance place in Brooklyn.

Q. Where is that? A. 700 Broadway. That place is out of business now.

Q. Well, when you worked for him at 700 Broadway—that would be what they call the Eastern District of Brooklyn? A. Williamsburgh.

Q. The other end of the Williamsburgh Bridge in Brooklyn, is that correct? A. Yes, sir.

Q. How old are you? A. Twenty-four in July.

Q. On April the 2nd, 1932, were you out with a young lady (laughter)? A. Yes, sir.

Mr. Reilly: Now at this time may I ask your Honor before we enter into the serious business of the afternoon, to direct those at this offside end of the room to stop their giggling and laughing? This

is very important. Just now we have had an outburst. We might just as well stop it now.

The Court: Yes. I will have to require people who remain in the Court House to keep quiet. There must be no laughing and giggling nor anything that results in confusion.

Q. How did you come to be a witness? A. Why I found something that led me to believe—

Mr. Wilentz: No. Just a minute. I object to that, if your Honor please, he found something that led him to believe.

The Court: Yes. The question is all right, but the answer of the witness does not seem to be responsive to it. He ought to held down.

Mr. Reilly: Well, if there is any question about that, I will withdraw him for a few minutes and call another witness. Step down, please.

(Witness withdrawn.)

Mr. Reilly: Mr. Schussler.

VICTOR SCHUSSLER, sworn as a witness on behalf of the defense.

Direct Examination by Mr. Reilly:

Q. Now, Mr. Schussler, I want you to sit back in the chair and take it easy, and answer the

questions as loud as you can. You don't feel very well, do you? A. No.

Q. And you have come here from New York? A. Yes, sir.

Q. At the request of the defense to testify, is that correct? A. Yes, sir.

Q. And you are the man that lived in Bruno Hauptmann's house? A. Yes, sir.

Q. Owned by Mrs. Rauch, is that correct? A. Yes, that's correct.

Q. Now, did you live there before Bruno Hauptmann, or did he live there first? A. He lived there first.

Q. And what rooms did you occupy? A. I occupied the rear rooms on the ground floor.

Q. And were there three families in the house? A. Yes, sir.

Q. Hauptmann, you and Rauches: correct? A. Yes, sir; correct.

Q. Now, were you in the habit of visiting, of going upstairs sometimes to Mr. Hauptmann's apartment? A. Yes. Once in a while I go upstairs.

Q. Do you remember ever seeing Isidor Fisch in Mr. Hauptmann's apartment? A. Yes, sir.

Q. About how many times would you say you saw him? A. I saw Isidor Fisch three times.

Q. Now, do you remember being present at a party on December 2nd, 1933, in Mr. Hauptmann's apartment? A. Yes, sir.

Q. And that was at a farewell party to Fisch? A. This was a farewell party for Fisch, yes, sir.

Q. About what time did you arrive? A. I come up about nine o'clock.

Q. Now, give me your best recollection as to who was there when you came up? A. Who was there when I come up, was Mr. and Mrs. Hauptmann, Mrs. Muller, Mr. and Mrs. Wollenberg and

Hans Kloppenburg and a couple from New Jersey, I don't know the names.

Q. Was Mrs. Hauptmann's brother Ernest there, too? A. Yes.

Q. Had Fisch arrived when you arrived? A. He was there already.

Q. And do you know what time he went down from the party? A. Around two o'clock.

Q. Did Fisch go home first or did you go home first? A. Yes, sir, he go home first.

Q. And all those people were there and spent a pleasant evening, is that right? A. Yes, sir.

Q. Now, how long did you live in the house? A. I moved—

Q. While Mr. Hauptmann lived there? A. I moved in the 1st of August, 1932, and moved out the 1st of November, last year.

Q. You moved out after Mr. Hauptmann was arrested? A. Yes, sir.

Q. Now, you had some tools there, didn't you? A. Yes, sir.

Q. And where did you keep your tools? A. In the cellar.

Q. And since Hauptmann's arrest, have some of your tools disappeared? A. Yes, sir.

Q. What tools did you have that you haven't now? A. I got a hammer and a saw and a square, an old chisel and pliers; I believe that is about all.

Q. They were there before he was arrested? A. Yes, sir.

Q. And they had disappeared since, is that it? A. Yes, sir.

Q. How many in your family, Mr. Schussler? A. Three.

Q. You and your wife? A. And the child.

Q. One child? A. Yes, sir.

Q. Did your wife go to this party? A. No.

Mr. Reilly: You may inquire, General.

Cross Examination by Mr. Wilentz:

Q. Will you please tell us how long you lived at this house? A. I moved in there from the first August, the first August, 1932, and moved out in the first November, last year.

Q. Yes, sir. Now, is this the chisel (referring to S-210) that you had that is missing from your place? Will you take a look at it? A. (Witness examines chisel.) No.

Q. That is not yours, is it? A. No, it is not mine.

Q. There wasn't a plane missing from your house, was there? A. No, I got no plane.

Q. You don't feel very well, do you? A. Well, I am— I am excited.

Q. You are excited, but you are sick, too, aren't you? A. Well, I got a little trouble in the heart.

Q. A little heart trouble. All right, then. We won't ask you any more questions.

Mr. Wilentz: That is all, sir.

Mr. Fisher: Just a second, please.

Re-Direct Examination by Mr. Reilly:

Q. Just one more second, please, Mr. Schussler, then you may go. Did Mr. Hauptmann come down and play with your child now and then? A. Well, in the summer time he came down. If the child was outside he played around, yes.

Q. Now, was Mr. Hauptmann kind to his wife? A. Yes.

Q. Treated her decently? A. Yes.

Q. You noticed that? A. Yes.

Q. While you were there? A. Yes.

Mr. Reilly: That is all.

Cross Examination by Mr. Wilentz:

Q. You did notice, when he lived there, that he didn't work, didn't you? A. Yes, sir.

Q. You were always wondering, weren't you, where he got the money? Weren't you? A. Well, I was not exactly wondering, because he said he was—

Q. Didn't you say, didn't you tell the police that you were always wondering where he got the money? A. (Shakes head.)

Q. Didn't you tell the police, when they asked you about Hauptmann, that you were always wondering where he got the money? A. Well, I was wondering because he was not working.

Q. Yes. That's right. And you also said, did you not, that you had to go to work every day and you couldn't understand why he didn't have to go?

Mr. Reilly: I object to what he said in the absence of the defendant.

Mr. Wilentz: Well, all right; that's all.

Mr. Reilly: That's all.

Mrs. Heyne.

HILDA HEYNE, sworn as a witness in behalf of the defendant.

Direct Examination by Mr. Reilly:

Q. Mrs. Heyne, where do you live now? A. Elizabeth, New Jersey.

Q. What is the address? A. 635 Livingston Street.

Q. How long have you lived in New Jersey? A. Nine years.

Q. How long do you know the Hauptmanns? A. Three years, four years.

Q. Where did you meet them for the first time? A. Met them in their home in the Bronx.

Q. In the Bronx? A. Yes.

Q. Do you remember being present on December the 2nd, 1933, in the Hauptmann home at a farewell party to Fisch? A. I was.

Q. Who were you with? A. My husband.

Q. And about what time in the afternoon or evening did you arrive? A. Between three and four.

Q. And did you find anybody there when you arrived? A. Mrs. Hauptmann.

Q. And who came in after that? A. I don't know.

Q. You didn't know the people, did you? A. No.

Q. Well, do you remember the last man that was on the witness stand, Mr. Schussler? A. Yes.

Q. Was he there? A. Yes, he was.

Q. And do you know the Wollenbergs by sight? A. I know the Wollenbergs by sight, but I didn't know them by name.

Q. Did you see them during the noon recess, out here? A. No.

Q. Out in the street? A. I saw them here.

Q. Were those people there, too? A. Yes.

Q. Were those people there too? A. Yes.

Q. And did you meet a Mr. Fisch there that night? A. I did.

Q. Had you ever seen him before? A. No.

Q. About how long did you and your husband stay? A. Around ten o'clock.

Q. Then you went home? A. Yep.

Q. Were you there when Mr. Fisch arrived? A. I was.

Q. Where was the first— In what room were you when you first saw Mr. Fisch? A. I was in the front room.

Q. Did he come into the front room? A. Nope.

Q. Where was he standing, where did you see him? A. I didn't see him—

Q. First? A. —come in.

Q. No. But when you first saw him, where did he come in? A. He came in the front room.

Q. At the parlor.

Mr. Reilly: That is all.

Cross Examination by Mr. Wilentz:

Q. Did Mrs. Hauptmann bring some maid to you when she came back from Europe, ever bring a maid to you or some relative? A. No.

Q. Do you have any relative working up in Bergen County, New Jersey? A. Bergen County?

Q. Yes. A. Nope.

Q. Did the Hauptmanns ever bring anybody to your house to work? A. Nope.

Q. Did they bring anybody from Germany, relative of yours? A. Nope.

Mr. Wilentz: All right, madam. Thank you.

(Witness excused.)

Mr. Reilly: Mr. Heyne.

OTTO HEYNE, sworn as a witness in behalf of the defendant.

Direct Examination by Mr. Reilly:

Q. Mr. Heyne, you live in Elizabeth, don't you? A. Yes, sir.

Q. Whereabouts? A. 635 Livingston Street.

Q. How long have you lived in Jersey? A. Nine years.

Q. Do you know the Hauptmann's? A. Yes.

Q. How long have you known them? A. I know them as long as I am here.

Q. How long are you here? A. Nine, over nine years.

Q. Did you know Mrs. Hauptmann first or Mr. Hauptmann? A. Mr. Hauptmann.

Q. Mr.? A. Yes.

Q. Well, did you attend a party to Fisch at their home in December, 1933? A. Yes.

Q. Who did you go there with? A. With my wife.

Q. What time did you get there? A. About four o'clock.

Q. How long did you stay? A. About ten o'clock.

Q. Did you meet a man named Fisch there? A. Yes, sir.

Q. Were you there when he came? A. No, I was in the front room, with my wife, when he came.

Q. When he came into the front room? A. Yes.

Q. You didn't see him arrive? A. I didn't see him arrive, no.

Q. This was a farewell party to Fisch, wasn't it? A. Yes.

Q. Before he sailed for Germany? A. We didn't know about this, we came unexpected.

Q. How did you come, by car? A. No, by train.

Mr. Reilly: That is all.

Cross Examination by Mr. Wilentz:

Q. When was the last time before the arrest that you saw Mr. Hauptmann? A. About in June.
Q. June, 1934? A. Yes.
Q. He told you then he was working as a carpenter, didn't he? A. No.
Q. Didn't you tell that to the investigators, that the last time you saw Mr. Hauptmann he told you he was working as a carpenter? A. No.

Mr. Wilentz: All right, sir, that's all. Thank you.

Mr. Reilly: That is all, Mr. Heyne.

Now, Mr. Heier, will you take the stand again?

BENJAMIN HEIER, resumed.

Direct Examination continued by Mr. Reilly:

Q. Do you remember April the 2nd, 1932? A. Yes, sir.
Q. Do you recall what night of the week it was? A. Saturday night.
Q. Do you recall where you were in the early part of the evening? A. In the Bronx.
Q. What part of the Bronx? A. I am not familiar with the Bronx, but it was around Webster Avenue.
Q. Well, did you call for a young lady in the Bronx that evening? A. Yes, sir, I did.

Q. Did you have your car with you? A. Yes, sir.

Q. And about what time did you call for the young lady? A. About seven thirty or eight o'clock.

Q. Where did she live? A. On Webster Avenue.

Q. Do you know the number? A. Yes, sir.

Q. What was the number? A. I would rather not say.

Q. The young lady is dead now, isn't she? A. She is.

Q. After this incident of April 2nd, 1932, did the young lady marry somebody else? A. She did.

Q. And is it a desire to protect her name and memory that you don't care to give her name? A. Exactly.

Q. You haven't any objection, though, to giving her name quietly to the Attorney General? A. I don't know. I prefer not to, though.

Q. Well, if he should ask for it in private or confidence, you would give it to him, wouldn't you? A. Yes, sir.

Q. Now, after you and the young lady entered the car, where did you drive? A. We drove around in The Bronx.

Q. And some time that evening did you get across the street from St. Raymond's Cemetery? A. It is not exactly across the street; it is alongside of it.

Q. Alongside of it. Do you remember what street? A. No.

Q. Do you think that you could point out on this aerial map, Defendant's Exhibit 32— I think it is 48, isn't it?

The Reporter: 48 in evidence.

Q. I am now referring to Defendant's Exhibit

48. Could you point out on this aerial map of St. Raymond's Cemetery, if it shows there, where your parked car was? A. This is Tremont Avenue, isn't it, where the car tracks are?

Q. I don't know much about the Bronx. A. I don't either.

Q. Do you know anything about the Bronx? A. Nothing at all.

Mr. Reilly: May we have the map, please?

Q. I will ask you this: Where were you living at that time? A. In Brooklyn.

Q. And the young lady lived in the Bronx? A. Yes, sir.

Q. Now I am going to direct your attention, Mr. Witness, to Exhibit S-174 and particularly to St. Raymond's Cemetery. Do you recall any of the streets that you were on? A. I remember being on Tremont Avenue.

Q. Here is East Tremont Avenue, my pointer— A. That is right.

Q. —points it out on the map. Where in relation to this street, East Tremont Avenue and St. Raymond's Cemetery, would you say your car was parked? Come down and look at the map, please, and see if you can remember. A. Which is the east and which is the west here?

Q. This would be the East River, that is the east? A. I came from the west towards the east, to Tremont Avenue.

Q. There is Tremont Avenue. Now where did you stop, to the best of your recollection? A. I think I could show better on this picture. I have an idea of this picture now.

Q. Well, looking at this picture— A. This is about where this gate is.

Q. You are pointing now to a gate on the north side of St. Raymond's Cemetery, is that correct? A. I don't know where the, the location—

Q. Well, that would be the upper part towards Westchester, is that correct? A. (Witness nods.)

Q. We will say that this part of the map here that I point to, St. Raymond's Cemetery, the right would be toward the East River and this bend in here you say Tremont Avenue? A. No, I think this is Tremont Avenue here (indicating).

Q. This is Tremont Avenue here. Oh, that is your best recollection of that night? A. Yes, sir.

Q. Had you ever been there before? A. No, sir.

Q. And you believe that you were parked opposite the cemetery wall? A. That is right.

Q. Take the chair, please. (Witness resumes the witness chair.) Now, I am showing you an aerial photograph and ask you if you ever saw it before? A. No, sir.

Q. Nor did you ever see any counsel for the defense in this case until you came here this morning, is that correct? A. I was in your office, in your office in New York.

Q. When? A. On Monday.

Q. But I was not there? A. No.

Q. Whatever story you told resulted in your being brought here today? A. Yes, sir.

Q. Is that correct? A. (Witness nods head.)

Q. Now, if I may hand this to the jury— While your car was parked there was this young lady in it? A. Yes, sir.

Q. And about how long were you there? A. About two hours altogether.

Q. And what were you doing there? A. Talking.

Q. What kind of lights was your car equipped with? A. Regular automobile headlights.

Q. And were they on or off? A. On some of the time and off some of the time.

Q. Will you tell us now, without any leading, what transpired at one of the times you turned your lights on. A. I was—the headlights weren't on— I was turning them on and off absent-mindedly, at least sort of, and as the light hit the wall there, the light was hitting the wall when it was on, and it was darkness when it was off. Suddenly, some—well, rather, a man hit the sidewalk as if he had jumped.

Q. From where? A. From over the fence.

Q. Of St. Raymond's Cemetery? A. Of St. Raymond's Cemetery.

Q. About what time of the night was that? A. I don't know; about between 9:30 and 10:00, maybe. We had been there—

Q. You didn't look at your watch, did you? A. I had no watch.

Q. Now, what did that man do in relation to your car? A. He took about four or five steps towards it and then stopped.

Q. And in relation to the light, was the light good or bad? A. Very good.

Q. Could you see the man? A. Yes, sir.

Q. Did you get a good look at him? A. Very good.

Q. How was he dressed? A. Wore a dark coat and a light hat.

Q. About how tall? A. Couldn't say, it was kind of hard to tell sitting down.

Q. Did you get a look at his face? A. Yes, sir.

Q. For how long a time would you say that face was under your observation? A. Well, the time he took the four steps and about five or six seconds after that.

Q. You did not know that man before that night? A. No, sir.

Q. When did you next see that man or a resemblance to that man? A. In the newspapers.

Q. When? A. When the trial started.

Q. When this trial started? A. Yes, sir.

Q. You had never seen his picture before that you remember? A. No, sir.

Q. Do you remember what paper you saw his picture in? A. I saw it in all the papers.

Q. And the picture that you saw in the newspaper was identified by what name? A. Isidor Fisch.

Q. I show you Defendant's Exhibit D-39 and ask you whether you recognize that photo as anybody you saw around St. Raymond's that night? A. There is a strong resemblance.

Q. Strong resemblance. Of course, the man you saw you say had a hat on? A. Yes, sir.

Q. And a coat? A. Yes, sir.

Q. Now, about two weeks or three weeks after or early in May of the same year did you receive a letter from the young lady that you were with that night? A. Yes, sir.

Q. And is this the letter (handing witness letter)? A. Yes, sir.

Q. You are familiar with her handwriting? A. I know the letter.

Q. Did it come in an envelope? A. Yes, sir.

Q. Mailed to you? A. Yes, sir.

Q. And does she speak, yes or no, of the incident of which you have referred?

Mr. Wilentz: Just a minute, now. I object to the question, if your Honor please, as not being material.

Mr. Reilly: I think it is highly material, because here you can almost say that as far as this incident is concerned, it would

be part of the res gestæ. On April 2nd, 1932, he sees this incident with the young woman and on May the 3rd, 1932, she writes a letter to him. I shall not go into the contents of the letter because I don't think it would be proper until your Honor rules upon it. But in it I can say she speaks of that incident. And I am going to offer the letter in evidence and may I submit it to your Honor to read?

The Court: Yes.

(Mr. Reilly hands letter to the Court.)

The Court: The witness may answer the question yes or no.

Mr. Reilly: May we have the question read?

The Court: Yes.

(The Reporter reads as follows: "Q. And does she speak, yes or no, of the incident of which you have referred?")

Mr. Wilentz: I object to that question, if your Honor please. That comprehends and includes, when you say "incident," that may be taken to mean everything that he talks about now.

Mr. Reilly: And that is what I—that is the purpose of the question

Mr. Wilentz: Now, this is with reference to whether or not some woman wrote a

letter to this man, a person who now is dead, and whether or not that person did some time in May write some letter in which the question is whether she speaks of an incident.

If your Honor please, that is going a long distance to permitting proof.

The Court: The question may be answered yes or no, if modified as to whether or not he received the letter exhibited to him through the mails.

Mr. Reilly: I think I did ask him, and I will ask him again.

By Mr. Reilly:

Q. Did you get the letter through the mail? A. Yes, sir.

Q. You are familiar with her handwriting? A. Yes, sir.

Q. That is her handwriting? A. Yes, sir.

Q. Did you afterwards—yes or no answer this—discuss the letter with her? Yes or no.

Mr. Wilentz: Just a minute. That I object to, if your Honor please.

The Court: Well, now then, we are going to look into that question.

Mr. Wilentz: Whether he discussed with her the letter?

The Court: Well, that will be objectionable.

Mr. Wilentz: That is what I am objecting to now.

The Court: Yes, I sustain that objection. Now, are counsel offering this letter?

Mr. Reilly: I am, sir.

Mr. Wilentz: I object to the letter. Of course, I haven't seen it anyway.

The Court: Yes.

Mr. Wilentz: May I take a look at it first?

The Court: Certainly. That is what I was intending to have you do.

(Mr. Wilentz examines letter.)

Mr. Wilentz: Will counsel proceed while I examine this?

The Court: Yes.

Mr. Wilentz: If there is anything further.

Mr. Reilly: Yes, I will go on.

Q. How long did you stay there? You say about— A. About two hours.

Q. Did you see in the general direction that this man disappeared, after coming in front of your car? A. Going away from my car, he turned around and went the other way.

Q. Did you see any automobile there? A. There were automobiles coming and going all that time.

Q. You didn't see him in any automobile? A. Pardon?

Q. You did not see him in any automobile? A. No.

Q. Did you see anybody else around there at that time? A. We saw several people walk by.

Q. Now let me ask you this question: Was it because of this letter and the incident of which you have testified of your own knowledge, the evidence that you have given here, that caused you to come forward as a witness in this case? A. Yes, sir.

Q. You do not know Hauptmann? A. No, sir.

Q. You don't know me, you don't know Mr. Fisher? A. No, sir.

Q. Mr. Rosecrans nor Mr. Pope? A. No, sir.

Q. Or Mrs. Hauptmann? A. No.

Mr. Reilly: You may inquire.

Cross Examination by Mr. Wilentz:

Q. Don't know anybody in this case, do you? A. Not before today.

Q. You read the newspapers, don't you? A. Yes, sir.

Q. And you see the pictures in the newspapers, don't you? A. Yes, sir.

Q. Of course, you knew after you would be a witness your picture would be in, didn't you? A. Yes, sir.

Q. You run a cabaret? A. No, sir.

Q. You did run a cabaret? A. I worked in one for my brother.

Q. Didn't you operate it? A. No, sir.

Q. Not at all? A. I was connected with it.

Q. Were you connected with it in any capacity

of operation or management? A. You mean the place that my brother owned?

Q. Whatever it is, the cabaret, I am talking about. A. Yes, I operated—I took his place when he left and was manager. He used my name rather than my service.

Q. Well, your name was the name that was used for the operation of this cabaret. A. Yes, sir.

Q. And it was under your name that it was conducted. A. No, sir, it was under my brother's name.

Q. Well, what do you mean he used your name? A. He used my name for advertising.

Q. What do you mean by that? A. Well, you might own a place and I might—you might use my name because I am better known than you are.

Q. That is what I want to know. In what way did he use your name? A. In connection with the fact that I was sort of a manager or host.

Q. Host. As manager and host did you have some trouble with that cabaret? A. Yes, sir.

Mr. Reilly: I object to that.

Q. Were you ever convicted of a crime? Answer the question— please. You ought to know. A. Well, tell me what conviction you mean. What do you mean by conviction?

Q. What conviction do *you* mean? A. What do you mean by conviction?

Mr. Reilly: I object to this. He says "What does conviction mean?"

Mr. Wilentz: No. He says "what conviction?"

Mr. Reilly: Will your Honor instruct him as to—

The Court: The question is whether or no he has been convicted of a crime.

Mr. Wilentz: That is the question.

The Court: Let him answer the question.

The Witness: What is "conviction?"

By Mr. Wilentz:

Q. Have you ever been convicted of a crime, by a Judge in New York, for instance? A. What is a conviction of a crime?

Q. Is there some doubt in your mind? A. Yes, sir.

Q. Were you ever arrested?

Mr. Reilly: I object to that. It means going to jail—

Mr. Wilentz: No, it doesn't mean going to jail at all.

Mr. Reilly: Well, I don't want to transgress on the Court's prerogative. The Court can tell what a conviction is.

By the Court:

Q. Do you mean to say that you don't know what is meant when you are asked if you have ever been convicted of a crime? A. I know the general meaning of the word, not the legal term.

Q. Well, now, the question is put to you: Have

you ever been convicted of a crime? You may answer that question. A. Might I ask a question before I answer it?

Q. Yes. A. Is a suspended sentence a conviction?

Q. Well, the sentence followed a conviction, and whether or no it is a suspended sentence or whether or no it is instantly imposed has no relation to the matter now that is being inquired about. The question is: Were you convicted? Not whether you were sentenced. A. I was convicted, yes.

By Mr. Wilentz:

Q. All right, sir. How many times? A. Once.

The Court: How many times?

Mr. Wilentz: Once.

The Witness: Once.

The Court: Once.

The Witness: In connection with this case.

Q. Now, what address did you say you lived at? A. 29 Cook Street in Brooklyn.

Q. Brooklyn? A. Brooklyn, yes, sir.

Q. You never heard of Mr. Reilly before, did you? A. I read his name in the paper.

Q. You are only a few doors away, aren't you? A. No, sir, we are at the opposite end of Brooklyn.

Q. Oh, I see, a different part of Brooklyn? A. (Witness nods head.)

Q. 29 Court Street, Brooklyn? A. Cook Street.

Q. Cook Street. Oh, I beg your pardon, I thought you said Court. A. Cook.

Q. You were in his office Monday, you say? A. Yes, sir.

Q. What was the name of the gentleman to whom you talked? A. Mr. Adelbaum.

Q. Mr. Adelbaum? A. Yes, sir.

Q. He isn't in court, is he? A. I don't know.

Q. Well, you know him? A. I don't see him.

Q. Is that the first time you ever saw Mr. Adelbaum? A. Yes, sir.

Q. Who took you to Mr. Adelbaum? A. Nobody, I went by myself.

Q. Now, this happened in May, 1932? A. Yes, sir.

Q. When is the first time you saw a picture of Isidor Fisch? A. Just about the time the trial began.

Q. When? A. I am not positive of the date the trial began.

Q. I don't want any positive dates, I want your best recollection? A. It was towards the latter part of last year.

Q. Towards the latter part of last year? A. Yes.

Q. Would you say September? I will withdraw that. Maybe I can help you. You read the papers, do you not? A. Yes, sir.

Q. In addition to being an operator or having been an operator of a cabaret you are some form of author, aren't you? A. Yes, sir.

Q. And so that you read quite extensively, do you not? A. I do.

Q. And you did read quite extensively in the year 1934? A. Yes, sir.

Q. Now, sir, you read, of course, the proceedings, regarding the proceedings in the Bronx Supreme Court when Mr. Hauptmann was resisting the efforts of the State of New Jersey to bring him here. A. Yes, sir.

Q. And at that time did you see the picture of Isidor Fisch in the newspaper, with his name underneath? A. I don't remember.

Q. Did you see it in October, 1934? A. I wouldn't give a positive statement on the date.

Q. Well, you did follow the case at that time, didn't you? A. Yes.

Q. You were interested because in addition to the ordinary interest, you had the interest because you had been at St. Raymond's Cemetery on April the 2nd. A. I had forgotten all about that incident.

Q. You had forgotten about it? A. Yes, sir.

Q. Did you forget about it in 1932, when the newspapers related finally that $50,000 had been paid at St. Raymond's Cemetery on the night of April the 2nd, 1932? A. No, sir. I remember that.

Q. You remember the newspaper— A. (Witness nods.)

Q. —writing about it? A. Yes, sir.

Q. Did that have any significance to you at that time? A. It did.

Q. In what way? A. I remember having been at the cemetery.

Q. And you remembered it then, didn't you? A. When the ransom was paid, yes.

Q. You remembered shortly thereafter when the stories appeared about the ransom being paid? A. Yes.

Q. So that some time in May, we will say, 1932,

when you realized from the newspapers that you had been at or near the scene where the $50,000 had been paid, you realized then, in May, 1932, and again in June, 1932, that you had been near that cemetery? A. Yes, I was.

Q. You knew it then? A. Yes.

Q. You were conscious of it? A. Yes.

Q. You are intelligent, aren't you? A. I think so.

Q. You think so. All right, sir. Now, having known it at that time did you go to the police and say "I was at St. Raymond's Cemetery on the night of April the 2nd, 1932?" A. No, sir.

Q. Did you go in May, 1932, and tell them about it? A. I never went.

Q. Why not? A. It was nothing for me to tell.

Q. That you had seen a man there, that you had seen his face, that you had your lights on him, nothing to tell? A. Nothing to tell.

Q. Why didn't you tell them that? A. I was grieved over something.

Q. You were grieved over something? A. Yes.

Q. Now you told us about the lady you were with? A. Yes, sir.

Q. And I appreciate your very keen desire to keep her name out of the case. A. Thank you.

Q. But since nobody else has been spared that testified up to now, will you do us the kindness of telling us where she lived? A. In Webster Avenue in the Bronx.

Q. What number? A. I don't think I would tell.

Q. You don't think you would tell? A. No.

Q. Would you tell us the name of the people who live there in the house? A. It is an apartment house.

Q. I mean the people with whom she lived? A. Her parents.

Q. What are the names of her parents? A. I won't tell that.

Mr. Wilentz: Well, we ask the Court, if your Honor please, for a proper investigation of this story, we want the name of the people at the house he went to that night.

Mr. Reilly: May he give it to the Court Reporter and not publicly?

The Court: The Attorney General has a right to have this question answered as he desires.

Mr. Reilly: I want it answered.

Mr. Wilentz: I want it under oath.

Mr. Reilly: Yes, under oath now. I have no objection to his telling the Attorney General or the reporter of the court.

Mr. Wilentz: There isn't anybody else who died who has been mentioned in this case who has been spared for one moment. I have no objection to the procedure counsel outlines, but I want to point it out—just a minute, young man, you didn't want to talk a minute ago, so just wait. If the Court thinks it just as well to have it in the record, but without letting everybody else know about it, I am not going to object so strenuously, although I think the jury might want to know themselves.

The Court: It is not a matter that the

Court desires to determine as a court question.

Mr. Wilentz: I want the answer, whether he whispers it to the stenographer or not, I am not interested.

The Court: The witness may answer the question.

(The reporter read the question as follows: "Q. What are the names of her parents?")

A. I refuse to answer that.

Mr. Reilly: The Court directs you to answer,—give the name to the stenographer.

The Witness: The name was Schwartz.

Q. Was that the name of the parents too? A. Yes, sir.

Q. And they lived at Webster Avenue? A. (Nods head.)

Q. What number? A. I have forgotten now.

Q. You what? A. I have forgotten now.

Q. How many times had you been there? A. Once or twice.

Q. Didn't you say a while ago you wouldn't give the number? Didn't you say a while ago you wouldn't give the number? A. If I knew it I wouldn't give it.

Q. If you knew it you wouldn't give it? A. (Nods head.)

Q. Will you take your hand away from your mouth for a minute, please? When did the lady die? A. In August of 1932.

Q. August 1932? A. (Nods head.)

Q. Between that time and August she married, did she? A. Yes.

Q. You weren't engaged to her? A. No.

Q. Sir? A. No.

Q. You had only visited her once or twice? A. Visited her home once or twice, but I had been out a number of times with her.

Q. Yes, how many times would you say? A. There is no definite number; I would say 25, or 30 or 40 times.

Q. 25, 30 or 40 times prior to April 2nd? A. Prior and after.

Q. Prior and after. When was she married? A. July, some time about the middle of July.

Q. Some time the middle of July, what year? A. 1932.

Q. You attended the wedding, of course, did you? A. No.

Q. Oh, you didn't attend the wedding? A. No.

Q. Where does her husband live now? A. I couldn't say that.

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

Q. Did you know where they lived when they married? A. They stayed in New York for a while.

Q. Do you know where? A. No.

Q. You had never been to their home? A. Never.

Q. You weren't that friendly? A. Friendly with her, but I didn't go there.

Q. You didn't go there? A. (Shakes head.)

Q. Now, I want to direct your attention to your examination by your counsel, or, rather, counsel for the defense, Mr. Reilly. Before I do that I want to give you another opportunity. Do you know the number on Webster Avenue where this lady lived? A. No, sir.

Q. Let me read your answers and the questions to which these answers were given when you were being examined by Mr. Reilly: "Where did she live? Answer: On Webster Avenue." Do you remember that? A. Yes.

Q. Next question: "Do you know the number? Answer: Yes, sir." Do you remember that? A. I didn't say "Yes, sir."

Q. Oh, you didn't say "Yes." The next question: "What was the number? A. I would rather not say." Do you remember that? A. Yes, sir.

Q. So you are saying now that what the record reveals as your sworn testimony is not the truth? A. I may have misunderstood the question and said "Yes" when I meant I didn't know.

Q. So that when you answered Mr. Reilly under oath that you knew the number but you would rather not give it, you made a mistake? A. Yes.

Q. You remember now that you did say it though? A. If it is in the record I must have said it.

Q. If it is in the record you must have said it. Now you say again that you do not know the number on Webster Avenue where this lady lived? A. No, sir.

Q. You swear to that? A. I do.

Q. Where did you say you live now? A. 29 Cook Street.

Q. In Brooklyn? A. In Brooklyn.

Q. When you went to Mr. Reilly's office on Monday, were you accompanied by anybody? A. No.

Q. You came alone? A. I came alone.

Q. Are you a professional witness? A. No, sir.

Q. You say that you were cognizant of the situation that in April you had been near St. Raymond's Cemetery, on April the 2nd, 1932, and you realized that in May and thereafter, 1932? A.

Around May the 3rd, and a few days afterwards. Then it passed from my mind.

Q. And never since that time had you gotten in touch with the police? A. No.

Q. And up to this very day you have never talked to any of the authorities, the Department of Justice, the Government, the Federal Government, the State of New York or the State of New Jersey? A. No.

Q. When you read in the papers at the end of 1934 the stories about Hauptmann's arrest and the Fisch story, did you then call it to the attention of anybody in authority? A. I had forgotten all about the incident.

Q. You forgot— A. Not so much the being there, but the date.

Q. You had forgotten, you remembered being there? A. I remembered having been there, but—

Q. But you didn't remember the date? A. I didn't remember the date.

Q. You mean you didn't remember the date that you had been there, but you remember being there? A. Yes.

Q. And that went, your failure to remember continued, up and through 1934, didn't it? A. Yes.

Q. Sir? A. Yes.

Q. So that up to and including the end of 1934, you had no recollection that you had been at St. Raymond's Cemetery specifically on the night of April the 2nd, 1932? A. No.

Q. No. You did have a recollection that you had been at St. Raymond's Cemetery? A. Yes, sir.

Q. Somewhere in the vicinity? A. Yes.

Q. But up until the end of 1934, your recollection did not go to the date? A. Up until last Saturday.

Q. Up until last Saturday. I was going to come to that. Now last Saturday was what date, if you remember? A. I don't remember the date.

Q. You don't remember the date? A. It was the 1st or the 2nd; the second.

Q. Well, that was a Saturday, wasn't it? A. Yes, sir.

Q. Sir? A. Yes.

Q. And last Saturday in the year 1935, you finally decided that the night that you were at St. Raymond's Cemetery was on the second night of April, 1932? A. Something came into my possession that told me that.

Q. That was the time? A. Yes, sir.

Q. It was nothing from your own independent recollection? A. No.

Q. It was something that somebody else conveyed to you? A. The letter, my recollection.

Q. Something somebody else either wrote or said? A. That told me, that reminded me of it.

Q. Something that somebody else did? A. Yes.

Q. Nothing from your own independent recollection? A. No.

Q. What street were you on when you parked your car? A. I don't know the name of the street.

Q. Have you gone there since? A. No.

Q. How many walls are there to the cemetery? A. I don't know.

Q. You don't know the street you were on? A. No.

Q. Well, after you came to Mr. Edward J. Reilly's office in Brooklyn Saturday, didn't you go back to see what it was all about? A. I went there Monday.

Q. Didn't you go back there? A. I had no reason to go back there.

Q. Didn't Mr. Adelbaum tell you to go back

and look this place over and see if it is the same cemetery and find out the street? A. He didn't.

Q. He didn't? A. He never said anything like that.

Q. Said nothing? A. No.

Q. Just said, "Go to Flemington?" A. He—not in those words.

Q. Not in those words, but at any rate you didn't go back to this cemetery? A. (Shakes head.)

Q. To see the name of the street? A. No, sir.

Q. You knew, of course, you were coming here to testify in an important case on a very important matter: you knew that, didn't you? A. Yes.

Q. And it was important enough for you to come here all the way from the other end of Brooklyn? A. Yes.

Q. But you wouldn't travel to St. Raymond's Cemetery, to help this jury with the name of the street that you were parked on?

Mr. Reilly: I object to the form of the question.

Mr. Wilentz: I think it is proper cross examination, if your Honor please.

The Court: I will allow the question.

Mr. Reilly: Exception.

The Court: Take your exception.

(Exception allowed and the same is signed and sealed accordingly.

THOMAS W. TRENCHARD (L. S.)
Judge.)

The Witness: What is the question?

Q. You didn't think it was important enough to get the name of that street in order to help this jury pass upon your testimony? A. What had the name of the street to do with the testimony?

Q. Why, the name of the street had everything to do with your being there, didn't it? A. I know where I was.

Q. What street? A. I don't know what street?

Q. Near what corner—near what corner? A. I showed it to you on the picture.

Q. Near what corner? A. Corner of Tremont Avenue.

Q. Well, then, you know the name. Why do you have to show it? How wide was the street? A. Which street?

Q. What street do you think we are talking about? The street that you were on. A. I just says Tremont Avenue, and you say street.

Q. The street that you were on, how wide was it? A. Enough for two cars to pass.

Q. Did it have flag stones on either side of it? A. No.

Q. Do you say No, because it didn't have or you don't remember? A. I am not positive.

Q. You are not positive. Well, then, say you are not positive. Don't say No if that isn't what you mean. Where was the nearest house to your car?

Q. Where was the nearest house to your car? A. There was a house at the right of us, some distance at the right.

Q. Any other houses? A. I saw lights. I don't know whether they were houses.

Q. You saw lights. What kind of lights did you

see? Where were the lights? A. Scattered all around.

Q. Street lights? A. Street lights and home lights.

Q. Street lights and home lights. How close to you was the nearest street light? A. I don't remember.

Q. You don't remember? A. (Shakes head.)

Q. Would you say a block away? Would you say 50 feet away—or what? A. I saw the reflection of the street light in my rear vision mirror, but I don't know where it was.

Q. You didn't see lights then. You saw the reflection of lights? A. Yes.

Q. And that you saw through the mirror? A. Yes.

Q. So that actually there were no lights in front of you? A. Except my headlights.

Q. No street lights? A. No.

Q. No house lights? A. No.

Q. Nothing but darkness? A. Yes.

Q. And through your mirror you could see the reflection in the rear somewhere of street lights? A. Yes.

Q. The reflection of street lights on the street that you were then parked on, or on some other street? A. The street—well, the reflection came in a mirror. I wasn't—

Q. Don't get weak, please.

Mr. Fisher: I ask to have that stricken, your Honor, "Don't get weak." It is highly unfair.

The Court: I will allow the answer to stand.

Q. From the view that you had of the lights

which you saw reflected, would you say that those street lights were on the street? A. Street lights must be on a street.

Q. On the street on which you were parked? A. Yes.

Q. Not on any other street? A. There were street lights on every street.

Q. I am talking about the street now on which you were parked. Were those the lights the reflection of which you saw while you were parked there? Were those lights on the street on which you were parked? A. On the corner of that street.

Q. The corner of that street and what other street? A. And Tremont Avenue.

Q. So you do know now where the light was? A. Yes.

Q. How far away from that corner were you parked? A. I couldn't say exactly.

Q. Well, you tell us, please, because you were there. Now, how far away from that corner were you parked? A. Well, approximately, I would say, 50 feet from the corner.

Q. 50 feet from the corner? A. (Nods head.)

Q. And would you say about from where you are seated to the end of this room? A. More than that.

Q. How much more would you say? A. Oh, about—

Q. One-quarter distance additional? A. About distance and a half.

Q. Distance and a half. Were you facing Tremont Avenue or was the back of your car to Tremont Avenue? A. Back of car towards Tremont Avenue.

Q. So facing in an opposite direction of Tremont Avenue? A. Yes, sir.

Q. And was your car parked along the curb? A. I don't remember whether there was a curb.

Q. Well, was it parked— At what angle: straight along? A. Well, at a slight angle, facing the cemetery.

Q. What did you have it parked facing the cemetery for? A. No reason.

Q. You were parked there for several hours, weren't you? A. About two hours.

Q. From what hour to what hour? A. From nine till about eleven.

Q. And you were parked there because you wanted to sit there, isn't that so? A. Yes.

Q. You didn't want to be molested or annoyed while you were in the company of the lady, isn't that it? A. Yes.

Q. And so, of course, you parked your car in such a way as not to obstruct any traffic? A. (Nods.)

Q. Please answer. Don't shake your head. A. Yes.

Q. Sir? A. Yes.

Q. And so, of course, you parked your car straight along, didn't you? A. Well, it may have been straight and it may have been at a slight angle. I didn't go—I had no compass. I had no way of telling whether it was straight or not.

Q. When you parked it you thought it was straight, at least? A. Yes, the way I drove up the street, that is the way I parked.

Q. On the right or left side? A. Of what, the street?

Q. Yes, sir. A. Left side of the street.

Q. Left side of the street? A. (Nods head.)

Q. What was there immediately to your right? How was the ground? Was it level? A. Yes, it was level.

Q. Was there any embankment to your right or to your left? A. There was a fence at my left.

Q. What kind of a fence? A. Partly stone and partly iron rail.

Q. Partly stone and partly iron rail? A. (The witness nods.)

Q. How long did that fence continue? A. I couldn't see that far.

Q. Well, you finally did see down along a fence, didn't you? A. Yes, I saw some distance along the fence, but not to the end of it.

Q. Did you see the entire cemetery fence? A. No.

Q. How far from Tremont Avenue did you see the fence? A. I don't understand your question.

Q. Well, the cemetery wall starts at Tremont Avenue, doesn't it? A. Yes, sir.

Q. Now how far from there could you observe the position that you were on? You couldn't see in back of you, of course, but in front of you, or to the side of you. A. About the length of this courtroom; a little more than the length of this courtroom past my car.

Q. So that you observed the fence for about the length of this court room from Tremont Avenue? A. No, more than that.

Q. The length and how much more—well, you said 50 feet before as one dimension. How many feet would you say you were able to observe along this concrete wall of this cemetery? A. About as much as this court room.

Q. About as much as this court room? That would be, in your judgment, about 40 feet, is that so? A. About.

Q. Well, now, you didn't see the second section of the cemetery at all, did you, if there was a second section? A. No.

Q. Do you know whether there is a second section? A. No.

Q. Do you know whether the wall continues straight along or whether there is a different thing that goes on there? A. No.

Q. You don't know whether there is a bush or hedge down beyond this concrete wall or not? A. No.

Q. Did you see the little pathway at the end of one section of the cemetery if there was a pathway? A. I don't understand that.

Q. Did you see a little roadway cutting through the cemetery anywhere? A. Yes, there was a gate.

Q. Where, on that street that you were parked? A. Yes, sir.

Q. A gate? A. It was a sort of a driveway.

Q. A gate, we are talking about. A. It was a break in the fence.

Q. Did you see a gate? A. Not a gate, no.

Q. Well, then, why do you say a gate if you didn't see it? Did you see a driveway and if so where was it with reference to the part of the cemetery that you looked at? A. Whether it was a driveway or a gate, I don't know. It was a break in the fence.

Q. Fifty feet from the corner? A. More than fifty feet from the corner.

Q. Sixty feet from the corner? A. I can't say the exact amount.

Q. Well, you say you only saw the distance, I think for 50 or 60 feet, I think you said 40 feet from the corner, am I mistaken about that? A. You are.

Q. How far from the corner could you see and did you see that wall? A. I was parked about 50 feet from the corner, then I saw—

Q. Forty feet more of it? A. Forty feet more.

Q. Then you saw a break, did you? A. Yes.

Q. In the wall? A. In the wall.

Q. For a driveway or an entrance-way? A. I suppose it was that.

Q. And then the concrete wall continued again? A. Well, as far as I— I am not positive about that.

Q. Well, you came here to testify, sir, and now is it your statement that you did or did not see a break in that concrete wall in the driveway? A. I saw a break in the wall.

Q. In the concrete wall? A. Yes, sir.

Q. On the side that you were looking at? A. Yes, sir.

Q. And there was a driveway there or some pathway? A. I suppose that there was.

Q. Then, if there was a break in the concrete wall, the concrete wall continued then, didn't it, after the break? A. I am not positive.

Q. Well then, what do you mean by a break? A. The wall that I saw came to an end at that point.

Q. Yes, then what followed that? A. I think the same wall continued.

Q. You think the same wall continued? A. (Nods head.)

Q. The concrete—what did you call it, a concrete— A. Stone or concrete, I don't know.

Q. Concrete or stone? A. (Nods head.)

Q. Do you remember whether or not this wall was a level wall? A. You mean level with the street?

Q. Well, did it run along like this (illustrating)? A. No.

Q. What did happen to it? A. It went down a slope.

Q. A slope? A. Yes, sir.

Q. You mean if this board then were tipped over a little bit— that's what you mean? A. Yes.

Q. That is, it went down with a downgrade? A. Yes.

Q. At a grade. A. Yes.

Q. What I mean is was it chopped up at all or was it smooth? A. What do you mean.

Q. Well, as I understand it, from Tremont Avenue, there is a downgrade there, isn't there? A. Yes, sir.

Q. You mean then that this wall continued along that way (illustrating)? A. Yes, sir.

Q. You don't mean that it was broken up? A. No.

Q. That it went right down. A. Yes.

Q. At an angle. A. Yes.

Q. I don't suppose that you can tell the angle. A. No.

Q. But you do remember it went at an angle. A. Yes.

Q. About the way this board, this cardboard is now placed? A. It may not be that angle.

Q. Not exactly that angle, but in that general direction? A. Yes.

Q. Looking from Tremont Avenue, straight? A. What do you mean by—?

Q. Straight down? A. Well, it curved a little.

Q. Yes, but it was a smooth wall surface, wasn't it? A. The road, you mean?

Q. No, the wall. A. I don't know,—

Q. Concrete wall. A. I imagine concrete is smooth.

Q. Yes, but it ran right along about that way; in other words it wasn't broken up, one place a little higher than the other, was it? A. No.

Q. Now, there was this break in this concrete wall and then the concrete wall continued? A. Yes.

Q. That's your recollection? A. Yes.

Q. With reference to that grade again, it isn't your testimony, is it, that the wall was in sort of steps, down and down and down, was it? A. No.

Q. Not the wall that you saw, was it? A. No.

Q. It was straight down? A. Yes.

Q. And, of course, if the wall at St. Raymond's Cemetery was at that time a steep wall, each little piece getting lower and lower, besides the grade, then that wasn't the wall you saw, isn't that so? A. Yes.

Q. All right, sir. Now, take a look at that concrete wall, will you (showing S-175 to the witness)? Do you see the steps in it every ten feet? A. Yes.

Q. You are mistaken then, aren't you?

Mr. Fisher: What is the date of that picture, sir?

Mr. Wilentz: That is as of the date—

Mr. Fisher: Before March 2nd?

Mr. Wilentz: Before the hedge was taken, yes; S-175.

Q. Do you see those steps?

Mr. Fisher: S-175?

Mr. Wilentz: Yes.

A. Yes, sir.

Q. That isn't the wall you saw, is it? A. Not the wall I have described; it is the wall I saw.

Q. Well, it is not the wall you described, and

you described the wall you saw, isn't that right? A. Right.

Q. Right. Now, take a look at that break, show me a break, and then having concrete wall continue, on that picture. It isn't there, is it? A. I was doubtful about it at first.

Q. You testified a moment ago under oath that there was a break in the concrete wall and then the concrete continued. Now you don't see any break in that concrete wall, do you? A. The break I mean is right here (indicating).

Q. Yes. But after that is the hedge, isn't it? A. Yes.

Q. No break in the concrete wall. A. No.

Q. But you do see specifically the cemetery, don't you? A. On here you mean?

Q. Yes. A. It is a part of it.

Q. Yes. You see a cemetery, don't you? A. Yes, sir.

(Mr. Wilentz handed S-175 to the jury.)

Q. What kind of rails did you see? A. Rails.

Q. Yes. Did you see any rails there? A. What do you mean by rails?

Q. Well, my recollection is, I may be mistaken, that you said something about cemetery rails. A. Part of the fence as we drove along had iron fencing, open iron fencing.

Q. Part of the what? A. Part of the wall.

Q. On the side on which you were parked?

The Court: What was that?

A. May I have your question again?

Q. No, I want your answer again, then I will ask you what you mean, something about rails, part of the wall or something had rails. What did

you mean by it or what did you say? Repeat it again. A. What appeared to me to be iron fencing.

Q. On the cemetery side? A. In the cemetery and around it.

Q. Around the cemetery on the—of course you are talking about what you saw there on that street where you were parked? A. Yes.

Q. So that it is now your recollection that there was a sort of iron railing or iron fencing on that side, isn't that so? A. I could see iron fencing.

Q. Yes, you could see iron fencing on that side on the street on which you were parked at the cemetery? A. Yes.

Q. Now describe the iron fencing that you saw there. A. Iron fencing. It had upright bars and level bars across it.

Q. Upright bars, iron bars, with level bars across it? A. They weren't bars exactly; they—I can't exactly— I couldn't describe them. I noticed them; I didn't—

Q. Well, what were they? What did they look like if they weren't bars? A. It struck me as an iron fence.

Q. It struck you as an iron fence. To what extent did you see an iron fence? A. I paid no attention to the length of it.

Q. Well, give us your best judgment. I know you didn't measure it. A. I just caught a glimpse of it and I knew it was there.

Q. Well, all right. Your glimpse. What did that glimpse bring to your mind as to dimensions? A. I couldn't say about the dimensions or size or anything.

Q. What you saw, it was ten feet wide, twenty feet wide, of iron fencing? A. I don't know where it started or where it began, I just saw part of it.

Q. You saw part of it, and that part was how

wide, the best judgment you have got? A. You mean how wide?

Q. You are an author, cabaret owner— A. What do you mean by "wide"?

Q. What? A. You are mistaken about the second one. What did you say?

Q. About how much of this iron fencing did you see in the glimpse? Would you say a few feet? A. The same as a person can see in a glimpse.

Q. Yes. As much as a person can see in a glimpse, and how much can a person see in a glimpse? A. As much as I saw.

Q. How much would you say that was? A. I don't know.

Q. You don't know. Where was it with relation to the cemetery wall, in the middle? A. You mean on the fence, on the wall?

Q. Yes. A. I don't know; I just saw the fence.

Q. Well, was it a break in the concrete fence, in the concrete wall? A. No, the concrete and the rail was independent.

Q. Well, where was the rail with reference to the concrete? A. It may have been on top of it, behind it, a few feet away from it.

Q. Well, it couldn't be behind it, because you wouldn't have seen it. A. Well, I did see it.

Q. You did see it? A. I did.

Q. Well, was it on top when you saw it or was it behind it, or was it in front of it? A. I don't know.

Q. You saw it, sir, didn't you? A. I could only see as far as the top.

Q. So far as you could see, was it on top, was it on the bottom, was it in front or was it in back? A. I don't know.

Q. Well, you saw it, sir. Now, you have got to

tell us, please, what you saw. A. I have no— I have no— I don't remember.

Q. But you do remember a sort of an iron railing? A. Yes.

Q. Having a glimpse of it? A. Yes.

Q. Now, will you look at this concrete wall again? A. I am looking.

Q. Do you see the rail on there? A. No.

Q. Concrete wall? A. No.

Q. You don't see any, do you? A. No.

Q. Did you see any that night? A. Yes.

Q. Where was it? Were those steps, or on the side or what? A. I could see it above the stone.

Q. Yes. So that this isn't a picture of the cemetery wall that you saw, is it? A. I don't see any railing there.

Q. That is not the cemetery wall that you saw that night, is it? A. I don't know whether it is the wall or not.

Q. Take a look at it. That is not the cemetery wall that you saw that night, is it?

Mr. Fisher: I submit, your Honor—

A. How can I tell with a few glimpses at it? I saw no wall —

Mr. Fisher: (continuing) —he has answered the question.

The Court: He may answer it again.

The Witness: What was your question?

Q. That is not the cemetery wall that you saw that night in April, 1932, is it? A. If that is St. Raymond's Cemetery—

Q. Not "if." Is that the cemetery wall you saw

there that night? A. Why, you'd have to tell me directions on this picture.

Q. You don't know then, do you? A. I haven't said that.

Q. Well, will you please tell us whether you know or not? A. You will have to tell me where this wall is.

Q. Oh, no. You have a picture there. You picked out the street on that photograph. Now, is that the wall that you saw that night or is it a wall of some other cemetery? A. I don't know whether it is the wall or not.

Q. You don't know whether that is the wall and you don't know whether that is the cemetery, do you? A. No.

Q. No. Referring to 175, State's Exhibit.

Mr. Fisher: Let me see that picture.

Q. What night club did you work in? What night club did you say? A. It wasn't a night club.

Q. Did it belong to Stitch McCarthy? A. No, sir.

Q. Did not? A. No.

Q. Do you know Mr. McCarthy? A. I have met him.

Q. This Stitch McCarthy, does he operate a night club? A. That is a nickname, "Stitch."

Q. Well, that is how he is commonly known, isn't it? A. Yes.

Q. Now, let's get back to these lights that you were putting on and off that night. How many times did you put it on and how many times did you put it off during these two hours that you were there? A. I didn't count the number of times.

Q. Were there many times? A. Several times.

Q. Would you say three or four times? A. More than that.

Q. Would you say ten times? A. It may have been ten.

Q. It may have been ten? A. I was doing it continually for a few minutes.

Q. For a few minutes. You mean that it may have been ten times? A. Yes, sir.

Q. And it may not have been ten times: is that right? A. That's right.

Q. You won't say that it was or it wasn't: is that right? A. That's right.

Q. Would you say it was eight times? A. I don't know the exact number.

Q. Just for a few minutes? A. Just for a few minutes.

Q. Of the eight or ten times, whatever it was, you did it in those few minutes, is that what you mean? A. I didn't say that.

Q. Well, I am asking you: is that what you mean? A. I may have turned it on 100 times, I don't remember.

Q. What? A. I may have turned it on a hundred times.

Q. I know, you may have turned them on a hundred or a thousand. The question is how many times did you turn them on and off? A. I don't remember.

Q. What is your best recollection? A. I kept doing it for several minutes.

Q. You kept doing it for several minutes. How many minutes would you say were several minutes? A. Three or four.

Q. Three or four minutes on and off, for three or four minutes, and as many times as that would take, you did it? A. Yes.

Q. For three or four minutes? A. Yes.

Q. You didn't want to be annoyed, of course, did you? A. No.

Q. Your brother bought his cabaret from Stitch McCarthy, didn't he? A. Pardon?

Q. Did he buy his cabaret from Stitch McCarthy, your brother? A. He did not.

Q. He did not. What time did you say you arrived there? A. About nine o'clock.

Q. How old are you? A. Twenty-four.

Q. What time did you start putting the lights on: what time? A. I have no recollection of the time; it was in between—

Q. When you first got there or when you were about to leave? A. Between the time I came and the time I left.

Q. Necessarily so. But in the early part of your stay there or the late part? A. I have no way of telling.

Q. What time did you say you arrived there? A. Will you repeat your question?

Q. What time did you say you arrived there? A. About nine o'clock.

Q. Where? A. At St. Raymond's Cemetery.

Q. You arrived at nine? A. Yes.

Q. Stayed there till eleven? A. Yes.

Q. Did you start putting them on and off at nine? A. No.

Q. Between nine and nine-thirty? A. No.

Q. Between nine-thirty and ten? A. No.

Q. Between ten and ten-thirty? A. It was just before I left.

Q. Right before 11 o'clock? A. Yes.

Q. That is when you started putting them on and off? A. Yes.

Q. And during the rest of that time you had your lights off, of course? A. I may have turned them on once or twice.

Q. You have no recollection of that? A. No.

Q. So the only recollection you have as to lights is that between ten-thirty and eleven you put your lights on and off absentmindedly for a few minutes? A. Yes

Q. How many minutes would you say? A. Three or four.

Q. Now, except for that time before eleven o'clock you kept your lights out and you remained in the car with the lady? A. Yes, sir.

Q. And then before eleven o'clock, somewhere between ten-thirty— say quarter to eleven— A. Approximately that.

Q. Approximately quarter to eleven, absentmindedly, you sat there turning the lights on and turning them off? A. Yes, sir.

Q. Thinking of nothing special, I suppose? A. That's right.

Q. And you don't remember any time when you turned those lights on before that you just stated, and that's correct, isn't it? A. I may have turned them on once or twice or three times.

Q. But you don't remember it? A. I was in the habit of doing it.

Q. Oh, you had a habit? A. Turning my lights on and off.

Q. Nervous, were you? A. I wasn't nervous.

Q. Was it a playful habit? A. Playful, I would say.

Q. Only when you were with a young lady or when you were alone, too? A. At all times.

Q. At all times. As you would ride down the streets would you turn them on and off?

(Laughs in the courtroom.)

A. (No answer.)

Q. Would you turn them on and off as you rode down the streets? A. No, sir.

Q. Only when you were parked? A. Yes.

Q. Is that what you mean? A. (Nods head.)

Q. Whether you were parked with the young lady sitting alongside of you or parked in the street alone, you had a habit of turning them on and off at night? A. Yes.

Q. Is that right? A. Yes.

Q. Now I think you told us the name of the parents of the young lady. You said the name was Schwartz and they still live on Webster Avenue? A. I don't know.

Q. You don't know. What business was the father in? A. I think he was in some clothing line.

Q. You think he was in some clothing line? A. (Witness nods.)

Q. Do you know where his place of business was then? A. No.

Q. Or is now? A. (No answer.)

Q. What did the girl do at the time? Did she stay home or did she attend school, did she follow some gainful occupation? A. She was working.

Q. Where? A. At a department store.

Q. What department store? A. I'd rather not answer that.

Q. Well, as long as you are only going to be here for a short while would you mind telling us? A. I said I would rather not answer that.

Q. You are not concerned about the department store, are you, sir? A. No, sir.

Q. The department store isn't dead, is it? A. No, sir.

Q. Will you tell us then, the name of the department store so that we might inquire if we— A. I don't see any reason I should bring the name of an innocent dead person into this case.

Q. We are talking about the store now. A. That is why I won't tell you the name of the store.

Q. I see. The girl's name is already in the case, you know. A. Yes.

Q. So that now all we want is the name of this department store. A. I wouldn't say that.

Q. You are still reluctant about it. A. Yes.

Q. Is it a big store? A. As big as any in the city.

Q. Does it advertise in the papers? A. Yes.

Q. You are not concerned about the store objecting to the name being brought in? A. No.

Q. You are not? A. No.

Q. Will you please tell us, then, the name of the store? A. I won't.

Q. You won't? Will you tell us if the Court suggests that it is a proper question? A. I already said that I wouldn't like to bring her name into it.

Q. We are talking about the store. Have you any objection to telling us the name of the store if the Court should decide it is a proper question? A. I have an objection.

Q. You would have an objection? A. Yes.

Q. There is nothing I could do by way of solicitation to induce you to tell the name of the store there? A. No.

Q. So that you and I cannot agree about this question, can we? A. No.

Q. Well then, of course, we will have to leave it to the Court.

The Court: Well now—

Mr. Wilentz: You see, if your Honor please, we cannot ascertain the address from this young man.

The Court: I understand that.

Mr. Wilentz: And we would like to inquire.

The Court: Yes, I understand it.

Mr. Reilly: You have a perfect right to and I will instruct him to answer it.

Mr. Wilentz: Mr. Reilly agrees.

The Court: One moment, Mr. Reilly, just let me proceed a moment. Your name is Benjamin Heier, is it?

The Witness: Heier, yes, sir.

The Court: Heier?

The Witness: Yes, sir.

The Court: Where do you live?

The Witness: In Brooklyn, 29 Cook Street.

The Court: 29 Court Street?

The Witness: Cook, C-o-o-k.

The Court: Cook, Cook Street. Well now, Mr. Heier, it is plainly your duty to answer this question.

The Witness: But your Honor, I would rather not.

The Court: I understand that you would rather not, but I am telling you that it is

your duty to answer this question, and are you going to do it or are you not going to do it?

The Witness: You are putting me in a hard position by saying that.

The Court: Well, I am sorry about your idea that I am putting you in an odd position, but I am telling you that you should answer this question, and that question is: "What is the name of that department store where this young lady was employed?" Now, you should answer that question and do it promptly.

The Witness: Well, suppose if I had a reason not to, would that be any, bear any consideration with the Court?

The Court: You may state the reason that you have for not answering that question.

The Witness: Relatives of this girl are employed in this store now.

The Court: What?

The Witness: Relatives of this girl—

The Court: That is no excuse, sir. You must answer this question.

The Witness: What was the question?

By Mr. Wilentz:

Q. The name of the department store in which this young lady was employed at that time. A. Bloomingdale's.

Q. Bloomingdale's. Do you remember the department? A. No.

Q. That was in 1932? A. Yes.

Q. Do you remember what month it was that she was employed there? A. She told me she was employed there.

Q. In what year? A. When I met her and all the time we were going together she told me she was employed at Bloomingdale's.

Q. What year was that? A. 1932.

Q. You don't know the address of the store, do you? A. I do.

Q. What is the address? A. 59th Street and Third Avenue.

Q. Did you ever visit her there? A. No.

Q. Will you please tell us the first name of the young lady and then we will have no further difficulty? A. Judy.

Q. Judy? J-u-d-y? A. Yes, sir.

Q. Judy Schwartz, is that it? A. (The witness nods.)

Q. Do you remember her father's name? A. No, sir.

Q. You do not. Did you ever meet him? A. For a few minutes, once.

Q. For a few minutes once. Will you take a look at these gates, (showing a photograph to the witness) cemetery gates, and tell me whether you recognize those as the gates, possibly, that you are referring to?

Mr. Pope: Please give us the exhibit number.

Mr. Wilentz: Yes, sir. I have no exhibit number right now.

A. When you say the gates, which gates—?

Q. The gates that you see right in front of you.

A. Which?

Q. Are those the gates you saw in the cemetery on the night of April the 2nd, 1932? A. All gates look alike.

Q. All gates look alike. Do they look like the gates you saw that night? A. Yes, it does.

Q. They look like the gates you saw that night? A. Well, I had only a glimpse of it.

Q. You said "Yes." Do you mean it? A. As far as I recollect, they do.

Q. As far as you recollect they look like the gates you saw the night of April the 2nd, 1932, is that right? A. Yes.

Mr. Wilentz: Referring to—will you give us an identification number for this?

The Reporter: S-293 for Identification.

(The photograph was marked "State's Exhibit S-293 for Identification.)

Q. Would you say that this picture is a fair and accurate picture of the gates that you saw that night? A. I am not a judge of photography.

Q. What is the answer? A. I am not a judge of photography.

Q. I didn't ask you if you were a judge of photography. I know what your business is. What I want to know is whether or not that is a fair and accurate picture of the gates that you saw in April, 1932? A. I saw gates, whether these are the ones I saw or not, I don't remember.

Q. Would you say that is not a correct picture of the gates you saw?

Mr. Pope : We object to the question. We think this has gone far enough. The witness has said two or three times he is unable to identify them. He says, "I will not say whether these are the gates I saw that night or not."

The Court: What is the question?

Mr. Pope: This is repetition.

(The pending question was read as follows: "Q. Would you say that is or is not a correct picture of the gates you saw?")

The Court: That is a proper question.

A. I don't know whether that is the gates I saw or not.

Q. You don't know? A. No.

Q. Referring to S-293, but it looks like it, doesn't it? A. Yes.

Q. These gates look like the gates you saw? A. They may have been the gates, they may not have been the gates.

Q. They may have been the gates or they may not have been the gates, but they look like the gates you saw, is that correct? A. I have already answered that one way.

Q. I want to make sure there is no difficulty about it. You can't tell whether they are actually the gates you saw, as I understand it, but looking at this picture, they look like the gates you saw that night? A. They may have been the gates

and they may not be the gates. Whether they are, I don't know.

Q. Do they look like the gates? Have they the same appearance? A. Gates are gates, and I don't remember them as to design or height or shape or anything. I remember seeing them.

By the Court:

Q. Now Mr. Witness, are you able to say whether or not these gates shown in this photograph look like the gates that you saw that night? Are you able to state that? A. No, your Honor.

Q. You are not able to state whether they look like the gates or not? A. No, sir.

By Mr. Wilentz:

Q. That was referring to S-293 for identification. When you started out this night on this trip to see the young lady, you started out from where? A. From my home in Brooklyn.

Q. And your home in Brooklyn was then on Cook Street? A. Yes, sir.

Q. And from Cook Street, what course did you pursue to get to your eventual destination? A. You mean the girl's home?

Q. Wherever it was that you went that night. You describe the course that you took. A. Well, across the Williamsburgh Bridge to Manhattan, up First Avenue to the Bridge that crosses the river, then along Southern Boulevard to Tremont Avenue.

Q. Go ahead. A. Tremont.

Q. Well, you didn't stop at Tremont? A. I don't know exactly the names of the streets. I know the route.

Q. You didn't stop at Tremont Avenue, did

you? A. I don't remember whether that was Tremont Avenue or not.

Q. Well, where did you go? A. I went to Webster Avenue.

Q. From where? A. From Brooklyn.

Q. I know; but from what street did you turn into Webster Avenue? A. You mean numbered street?

Q. Numbered or otherwise; numbered or lettered. A. I don't know the street.

Q. How many times had you been up there; had you ever been up there at all? A. Once before.

Q. Only once? A. (Nods head.)

Q. You knew the course, though, didn't you? A. Yes.

Q. You didn't get lost, did you? A. No.

Q. You went alone, didn't you? A. Yes.

Q. Did you ask anybody any instructions on your way up, or did you know how to go? A. I know how to get there.

Q. You knew how to get there? A. (Nods head.)

Q. And of course you know how to get there by looking at the street names, isn't that so? A. No, I knew the general direction of Webster Avenue.

Q. General direction? A. I knew just the main streets in The Bronx and I knew the general direction of Webster Avenue and I went there.

Q. Did you strike Tremont Avenue and the Boulevard or don't you know? A. I don't remember the—

Q. You don't know? A. No.

Q. Do you know where the Boulevard is there? A. Southern Boulevard?

Q. Any Boulevard. A. Coming off the bridge—

Q. You strike a boulevard don't you? A. Yes.

Q. Well, you finally struck some other avenue

that you turned on after you left the boulevard? A. Yes.

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

Q. You don't know what street you turned off? A. No.

Q. You don't know whether you struck Tremont Avenue or what you struck? A. No.

Q. So you took your girl across the street from the cemetery for your parking that evening, is that it? A. Well, I didn't know how to get there.

Q. How did you get to the cemetery from— A. This girl directed me.

Q. From Webster. A. We drove around in a round about way.

Q. How long did you drive around? A. About an hour, an hour and fifteen minutes or something.

Q. From the house to the cemetery? A. We didn't go directly there.

Q. Well, I mean you drove around for an hour or an hour and fifteen minutes. A. Yes.

Q. Took a ride, in other words. A. Yes.

Q. What kind of an automobile did you have at the time? A. Hudson sedan.

Q. And you and the lady were seated in front? A. Yes.

Q. Nobody in back? A. No.

Q. What time did you leave home that night? A. About six.

Q. What? A. About six.

Q. Six o'clock? A. Yes.

Q. To go up to the Bronx? A. I didn't go directly to the Bronx.

Q. Where did you go? A. Stopped off a number of places.

Q. You didn't tell us about that a minute ago. That's what I wanted to know now. A. You asked me how I got to the Bronx.

Q. I asked you to describe your trip from the time you left home. All right. Now you tell us all over again. A. Left home, I crossed the bridge—

Q. Yes. A. —to Manhattan.

Q. Yes, sir. A. I went over to a store that my father owned at the time.

Q. Where was that store? A. Where I am now employed, 110 Forsythe Street.

Q. Where? A. 110 Forsythe Street.

Q. What kind of a store was it then? A. Restaurant.

Q. What kind of a store is it now? A. A restaurant.

Q. No cabaret? A. No, sir.

Q. No entertainment? A. No, sir.

Q. A restaurant? A. A restaurant.

Q. Not a saloon? A. Not a saloon.

Q. All right. You stopped there. How long did you stay there? A. I had dinner there.

Q. What time were you through with dinner? A. But I didn't have dinner and all together. I had one course. Then I talked a while; then I had something else.

Q. All right. How long did it take you, this visit there to your restaurant there? A. Past seven I guess.

Q. Half past seven? A. Past seven.

Q. Quarter after seven? A. Some time after seven.

Q. Did you phone the young lady? A. No.

Q. How did you make the appointment? A. We were to meet downstairs.

Q. Downstairs where? A. At her house.

Q. What time? A. Eight o'clock.

Q. At eight o'clock. You didn't go in her house? A. No, sir.

Q. You didn't go into the house to call for her? A. I did not.

Q. When did you make the appointment? A. A week before.

Q. A week before, on a Saturday night? A. No. During the week.

Q. During the week. Where were you when you made the appointment? A. In The Bronx.

Q. Did you make it by telephone? A. No.

Q. Were you there with her at the time? A. Yes.

Q. At her home? A. No.

Q. In her house? A. No.

Q. Were you ever in her house? A. Once.

Q. When was that: prior to April 1932, or after April? A. When I met her, a few days after I had met her.

Q. When was that? A. The early part of 1932.

Q. What part is that? A. The latter part of January or the early part of February.

Q. Either the latter part of January or the early part of February. Who was home at that time? A. Her mother and father. She said they were her mother and father.

Q. She said they were? You have no doubt about it? A. No.

Q. Have you some doubt about it now? A. No.

Q. And the week before that: would you say it was just a week before? A. What's a week before.

Q. That you made the appointment. A. It was some time—one of the days between—in the week. I was up there maybe three times that week or twice that week.

Q. That week? A. The last time I saw her I made the appointment for Saturday.

Q. The very week. That very week you made the appointment? A. Yes.

Q. You had been up there about three times that week, that— A. Yes, sir.

Q. —very week? A. Yes, sir.

Q. And it was the last of those three times, approximately that you made this date for Saturday night? A. Sir?

Q. The last time you had been up there during that week— A. Yes, sir.

Q. —you made the date for, or appointment for Saturday night? A. Yes.

Q. So that you made the appointment within a couple of days of Saturday. A. Yes.

Q. So that it wasn't a week ago that you, a week before that you had made the appointment, was it? A. No, it wasn't an entire week before.

Q. It was not an entire week before? A. No.

Q. It was in the very same week. A. Yes.

Q. And in fact it was only a day or two before that you made the appointment. A. Yes.

Q. Who was with you when you made the appointment? A. Just the two of us.

Q. Well, at any rate, it was after seven, a quarter after seven that you left your father's restaurant in Manhattan? A. Yes.

Q. Is that right? A. Yes.

Q. You said you went to several places. Now, give us those places from there. A. I went to a place on Grand Street, where some friends of mine—

Q. What street was your father's place on? A. Broom and Forsythe.

Q. Sir? A. On Broom and Forsythe.

Q. That is down on the East Side. A. East Side.

Q. Isn't it? A. Yes, sir.

Q. And from there you went to where? A. Grand and Attorney.

Q. That is also on the East Side? Isn't it? A. Yes, sir.

Q. How long did it take you to go from Broom and Forsythe street to Grand and Attorney? A. Five or ten minutes.

Q. And when you got there, in whose place did you stop? A. I stopped in the street.

Q. In whose place did you call? On anybody? A. No.

Q. What did you stop for? A. I was looking for somebody.

Q. Did you find them? A. No.

Q. Did you go into any place? A. No.

Q. Didn't leave the car? A. No.

Q. Well, how did you find him if you didn't go in? A. He was supposed to be outside.

Q. So this was somebody you were going to meet outside? A. (Nods head.)

Q. On the curb? A. Yes, sir.

Q. Where? A. On Attorney and Grand Street.

Q. On the corner? A. On the corner.

Q. On the very corner? A. On the very corner.

Q. Who were you going to meet on the corner that night? A. A friend of mine.

Q. What is his name? A. I don't remember exactly which friend it was.

Q. Sir? A. I don't know exactly which friend it was.

Q. How do you know he wasn't there if you don't know his name? A. Oh, I forget which friend it was now, I know why I went there, but I don't remember the one.

Q. What date was that? A. April 2nd.

Q. What year? A. 1932.

Q. And that was at Grand and Attorney? A. Yes.

Q. How did you know you were to meet a friend

there? A. We had an agreement to see each other.

Q. Who had the agreement? A. The friend and I.

Q. Who is the friend? A. I have forgotten his name.

Q. What was it about? A. Nothing important.

Q. Well, whether it was important or whether it wasn't, it was important enough for you to meet him at the corner, wasn't it? A. Yes.

Q. Where were you going that night with the friend? What was the purpose of the appointment? A. No purpose at all.

Q. Man or a woman? A. Man.

Q. Sure? A. Positive.

Q. How do you know, why are you so positive, when you don't even remember who it was? A. Because I have only men friends there.

Q. Sir? A. They are only men friends there.

Q. Sir? Down at Grand and Attorney there are only men friends there? A. Of mine.

Q. Men friends of yours? A. (Nods head.)

Q. You haven't the faintest idea who it was you were to meet that night, have you? A. No, I don't remember.

Q. How long did you stay around waiting for him to see if he would keep his appointment, this gentleman whose name you have forgotten? A. Oh, I just stopped and looked about, he wasn't there and I went right away.

Q. When you got to that corner did you know then who you were looking for? A. Certainly.

Q. You didn't forget it then? A. No.

Q. When did you forget it? A. When did I forget it? Since that time and now.

Q. Since that time. Between that time and now? A. (The witness nods.)

Q. Well, so you stopped there and you just

stopped for a minute or five minutes or ten minutes; what would you say? A. Just slowed up and came to a stop and looked about and kept right on going.

Q. Did you blow your horn? A. No. Maybe I did. I don't remember.

Q. Sir? A. I may have.

Q. You may have? A. I wouldn't say I didn't.

Q. Then you continued on. Where did you finally stop that night again? You said you went to several places A. Up in Webster Avenue from there.

Q. So you only actually stopped in one place after you left your home? A. No, two places.

Q. The corner, you count that as one place? A. Yes.

Q. And your father's store? A. Yes.

Q. How long did it take you to get to Webster Avenue, would you say, from this corner of Grand and Attorney? A. Between the time— I must have got there about 7:20, from that time till we made the appointment about eight or eight-fifteen —about three quarters of an hour, I think.

Q. What time did you get to the home of your lady friend? A. Somewhere around eight o'clock.

Q. And you met her outside? A. Yes.

Q. On the sidewalk? A. Yes.

Q. On the sidewalk? A. Against the house.

Q. On the sidewalk? A. Yes.

Q. She had a coat on? A. Yes.

Q. A heavy coat? A. A cloth coat.

Q. It wasn't one of these Mink coats, was it? A. No, it wasn't a fur coat.

Q. Just a cloth coat. Have a hat on? A. Yes.

Q. Do you happen to remember the color of either the coat or the hat? A. I think the coat was dark green.

Q. Dark green? A. Yes.

Q. So you got there about a quarter after eight? A. About that.

Q. Sir? A. About that time.

Q. Do you think it might have been half past eight? A. Rather a quarter after eight.

Q. Rather a quarter after eight. That is quite— you didn't have a watch with you? A. No.

Q. You didn't see any watch? A. No.

Q. But you think it was about a quarter after eight? A. About that.

Q. You drove around for about an hour and a half, an hour and a quarter, is that right? A. from a quarter after eight, you mean?

Q. Yes. A. Yes.

Q. So that you got there about half past nine— A. It was nearer nine o'clock.

Q. Well, I am taking your figures, sir. You said— A. My figures are approximate.

Q. —quarter after eight, and you drove around for fifteen minutes. A. Fifteen minutes you add on to both sides. When I say an hour, it might mean three-quarters or an hour and a quarter.

Q. And once you got there you parked your car? A. Yes.

Q. Turned the lights off? A. Yes.

Q. Now, when you parked your car on this street there was no other car parked there, was there? A. I don't think there was.

Q. Well, if there was you have no recollection of it? A. No.

Q. And no other car came there; I think you told Mr. Reilly "Yes, cars passed on Tremont Avenue." A. (Nods head.)

Q. You are shaking your head. You say yes? A. Yes.

Q. Those were the only cars that came around in that vicinity that you saw that night? A. Well,

one of them; well, yes, one of them drove down that road, the one I was parked on there, and immediately came back.

Q. Didn't stop, though? A. I don't think it stopped. It was out of—

Q. Well, you didn't see it stop? A. No.

Q. If it stopped you don't remember seeing it? A. No.

Q. A car went up and down? A. Yes.

Q. Once. A. Once.

Q. You don't know whether it was the same car, do you? A. Oh, only one car entered and it came back.

Q. You don't know whether it was the same car that came back that once entered, do you? A. No.

Q. You saw a car going down the street in one direction and some time later you saw another car coming in the other direction? A. In a very few minutes another car came and it looked like the same car.

Q. But you won't say that it was? A. No.

Q. And you didn't see anybody in that car, did you? A. Certainly there was somebody in that car.

Q. Well, nobody that you recognized? A. No.

Q. Not at that time or since? A. No.

Q. And when you saw a picture in September or October or November or December, 1934, of a man with the name Isidor Fisch, at that time in 1934, that had no significance to you? A. I remember I thought the face was familiar, but I couldn't remember who it was.

Q. It had no significance, did it? A. I didn't know who it was, no.

Q. During the four seconds that you saw, whatever seconds it was that you saw in the glimpse of some light a face— I withdraw that. You

don't know who you saw there that night, do you, Mr. Heier? A. What?

Q. You are not certain of who you saw there that night? A. The man I described you mean?

Q. Yes, you are not positive, are you? A. No.

Q. No. Whoever it was that you saw you saw through the medium of your lights as they flashed on for a few seconds? A. Yes, sir.

Q. Now since you didn't flash your lights on till about quarter to eleven or half past ten, between half past ten and eleven— tell us about when it was, was it five minutes before you left that you put your lights on, ten minutes or about a half hour? A. When the lights— I left right after this man went in the opposite direction.

Q. That means around eleven o'clock? A. Between quarter to eleven and eleven.

Q. So you left there between quarter to eleven and eleven? A. Yes, sir.

Q. And that was just about the time this incident occurred quarter to eleven about? A. Yes.

Q. So that you saw the face, you saw the man jump down? A. Yes, sir.

Q. And you left all about between quarter of eleven and eleven o'clock? A. Yes, sir.

Q. Eleven o'clock at night? A. Yes, sir.

Q. You understand, of course, the purpose of your sitting where you are sitting; you know what you are doing, don't you? A. Certainly.

Q. You are testifying? A. Certainly.

Q. Under oath? A. Certainly.

Q. You understand that? A. Yes.

Q. You comprehend it? A. Yes.

Q. And you have thought about this thing since Monday, haven't you? A. Yes, since Saturday.

Q. Since Saturday? A. Yes.

Q. When you were in Mr. Reilly's office with

his associate there, I take it that you gave a statement of some kind? A. Yes.

Q. Some gentleman took down your statement, didn't he, as you told it to him? A. No, he didn't take it down.

Q. Well, you gave a statement, did anybody write anything down? A. I don't think so.

Q. You don't think they wrote it down? A. I didn't see anybody write a thing.

Q. Just told them a story and then he indicated that you ought to come to Flemington? A. Yes.

Q. Of course you are here at your own expense, aren't you? A. No, sir.

Q. Sir? A. No, sir.

Q. You are not here at your own expense? A. No.

Q. You mean your expenses have been paid? A. Yes sir, my fare has been paid.

Q. Did you come here by train? A. Yes, sir.

Q. Alone? A. No, with Mr. Reilly's secretary and several other witnesses.

Q. You came here with Mr. Reilly's secretary? A. Yes.

Q. Somebody bought a railroad ticket for you or gave you the money for it? A. Bought a railroad ticket for me.

Q. And you have come down here on the train with the other witnesses? A. Yes.

Q. Now you saw this face at quarter to eleven, between quarter to eleven and eleven you saw the man jump out of the cemetery or off the wall or wherever it was, and then you left, is that so? A. After the man had run in the opposite direction I left.

Q. Of course that all took a couple of minutes, we will say? A. Yes.

Q. But it was all in the neighborhood of quarter of eleven or eleven o'clock? A. That is true.

Q. You couldn't be mistaken by an hour, could you? A. By an hour?

Q. Yes, it wouldn't be a quarter to ten? A. You mean I left at quarter to ten?

Q. You stated that this man that you saw when you put on the flash of the lights, when he jumped off the fence and ran away or walked away, that all of that happened about a quarter to eleven? A. Yes.

Q. And you immediately left? A. Yes.

Q. That's true, isn't it? A. Yes.

Q. And when you say a quarter to eleven you don't mean a quarter to ten, do you? A. No.

Q. You mean a quarter to eleven? A. Yes.

Q. Now, let me read you your testimony to Mr. Reilly about the hour that you saw this man.

Mr. Wilentz: I will withhold that question for a moment, sir, and, if your Honor please, since it is past our usual recess time, may we have a recess now?

The Court: Yes, five minutes.

(At 3:37 p. m. a short recess was taken.)

(3:51 p. m.)

(After a short recess the jury was polled and all jurors answered present.)

The Court: Mr. Attorney General, you may proceed:

BENJAMIN HEIER resumed the stand.

Cross Examination (continued) By Mr. Wilentz:

Q. While you were at this cemetery, whatever cemetery it was, did you hear anybody holler, "Hey, Doctor"? A. No, sir.

Q. Did you hear anybody holler "Doctor"? A. No, sir.

Q. And you only saw one person that night there? A. Yes, sir; one person that I was interested in, that I remember.

Q. Sir? A. I saw several people there.

Q. Not around that cemetery wall? A. No.

Q. Not jumping on and off the wall? A. No.

Q. Only one person? A. Yes, sir.

Q. And you don't know how tall he was? A. No, sir.

Q. You don't know how short he was. A. No, sir.

Mr. Wilentz: That's all I have with the witness.

Mr. Fisher: Wait a minute. Wait a minute.

Re-Direct Examination by Mr. Reilly:

Q. And it was last Saturday, was it, that you found the communication from Judy? A. Yes, sir.

Q. And was that a letter that she had written to you May the 3rd, 1932? A. Yes.

Q. That was a short time after the visit to St. Raymond's Cemetery? A. Yes.

Q. Now, you didn't go up there looking at the cemetery to measure it or to get a photograph of it, did you? A. No.

Q. Or to see how many iron fences there were or stone fences. A. No.

Q. It was your first time there, wasn't it? A. Yes, sir.

Q. And your last time there. A. Yes sir.

Q. You drove in there with this young lady and you sat in your car, is that correct? A. Yes, sir.

Q. Where was this dashboard light? A. On the wheel, on the steering wheel.

Q. On the steering wheel. Now what do you mean that you turned it on and off as you sat there? What did you do? A. My hand rested on the knob of the light and I just kept pushing it up and back.

Q. While you were talking? A. Yes.

Q. Do you remember what time you got there? A. At the cemetery?

Q. Yes, about. A. About nine o'clock.

Q. Did you have a clock in your car? A. No.

Q. Have a watch on? A. No.

Q. Are you giving us your best recollection? A. Yes, sir.

Q. Now you didn't come down here to inject yourself in this case, did you? A. No, sir.

Q. You didn't come down here to lie, did you? A. No, sir.

Mr. Wilentz: I object to that question, if your Honor please—well, I withdraw it. What is his answer?

A. I have no reason to lie.

Mr. Wilentz: I move that that be stricken out, if your Honor please. It is not an answer to the question.

The Court: It does not seem to be an answer to the question Mr. Reilly.

Q. You came down here to tell the truth, did you? A. Yes, sir.

Q. You don't know any of us, do you? A. No, sir.

Q. Now isn't it a fact that last Saturday you found Judy's letter that she had written to you May 3rd, 1932? A. Yes, sir.

Q. And did you read it? A. Yes.

Q. And from that letter did you associate your visit to St. Raymond's Cemetery April 2nd, 1932? A. Yes.

Q. And then did you believe it was your duty to come down here and testify— A. Yes.

Q. —as to what you had seen? A. Yes.

Q. And the man that you saw jump over the wall resembles Fisch: is that correct?

Mr. Wilentz: I object to that—

Q. Is that what you have testified to?

Mr. Wilentz: I object to that as being offensively leading.

The Court: Yes, that is leading.

Mr. Reilly: I think it is proper re-direct.

The Court: Beg pardon?

Mr. Reilly: I think it is proper re-direct.

The Court: Well the witness's answer to that particular question is in the record Mr. Reilly.

Mr. Reilly: All right.

The Court: And for you to suggest

something else to him is what we lawyers call leading, which is objectionable.

Mr. Reilly: Well, I will try not to lead again, but I have fallen into a very bad habit, by listening to my distinguished friend. Of course, he has some good habits too. I hope to carry them home with me.
Now I offer this letter in evidence.

Mr. Wilentz: I object to the letter, if your Honor please, as not being material to the cause.

The Court: I shall have to exclude it, Mr. Reilly.

Mr. Reilly: May I have it marked for identification?

The Court: Yes.

(Letter referred to marked Defendant's Exhibit D-49 for Identification.)

Mr. Reilly: I think that is all.

Re-Cross Examination by Mr. Wilentz:

Q. Have you any envelope? A. Not with me.
Q. Showing the handwriting of the lady. A. No.
Q. In whose company you spent that evening, in April, 1932. A. No.
Q. None? A. None.

Mr. Wilentz: That is all.

(Witness leaves witness stand.)

Mr. Reilly: Steinweg.

GEORGE STEINWEG, sworn as a witness on behalf of the defendant.

Direct Examination by Mr. Reilly:

Q. Mr. Steinmetz, is that the way you pronounce your name? A. Steinweg.

Mr. Wilentz: Steinweg.

Q. Steinweg? A. Steinweg.

Q. What is your business? A. Steamship and tourist business.

Q. And where is your place of business? A. 226 East 86th Street, New York.

Q. And how long have you been in that business, how long have you been in it? A. Twenty-five years.

Q. Twenty-five years? A. Yes.

Q. Did you on some day prior to December the 6th, 1933, sell the transportation of Isidor Fisch to Isidor Fisch? A. Yes, I did.

Q. To Germany? A. To Isidor Fisch and his friend Mr. Uhlig.

Q. When? A. On August 18th, 1933.

Q. August 18th, 1933? A. 1933, was the first visit of Mr. Fisch.

Q. Yes, the first visit. Well, did he buy his ticket then? A. No, he only made reservation for himself and his friend.

Q. Made reservations for what ship? A. The Manhattan, steamer Manhattan.

Q. Sailing when? A. Sailing December 6th, 1933.

Q. So that in August, 1933, he made a reservation for December, 1933? A. Yes, sir.

Q. And sailing on the U. S. S.— A. SS. Manhattan, yes, sir.

Q. United States lines? A. Yes, sir.

Q. And it stops at Bremerhaven? A. No, Hamburg.

Q. At Hamburg? A. Yes, sir.

Q. When did he come in and buy his ticket? A. The final payment was made on November 14th, 1933.

Q. And did he come in alone? A. The second time, yes.

Q. That was the final payment? A. Final payment.

Q. How much did he pay for his ticket and for Uhlig's ticket? A. For the both tickets he paid the tickets $410.

Q. And how much did he transfer into German currency? A. Not German currency, he bought German registered mark checks, American Express checks.

Q. For how much? A. 1500 marks for himself and 500 for Uhlig.

Q. And how much was that in American money? A. Approximately $650.

Q. So he spent with you over a thousand dollars? A. Over a thousand dollars.

Q. Now, did he exhibit to you any money in addition to the thousand dollars that he spent with you? A. He had quite some money in his wallet that he took out.

Q. Did you see his wallet? A. Yes.

Q. Describe to the jury the condition of the wallet in so far as money was concerned, after he was finished paying you over a thousand dol-

lars. A. He had quite considerable more money in his wallet, because I asked him to buy more checks; but Mr. Fisch said that his friends would send some more money afterward if he needed it.

Q. Friends would send him some more money over to Germany if he needed it? A. If he needed it.

Q. Now, you had records showing the transaction, didn't you? A. Yes, sir.

Q. And where are those records now? A. I have the steamship record with me, but the travel check records were taken away from me by the officials.

Q. By the State Police of New Jersey? A. No, from New York.

Q. How long ago? A. Right after the arrest of Mr. Hauptmann.

Q. And you do know, do you, that Isidor Fisch and his friend, Henry Uhlig, sailed December the 6th, 1933? A. Yes, sir, Room C-31.

Q. Room C-31 on the U. S. Manhattan. A. U. S. Manhattan.

Q. Did Fisch ever return as far as you know? A. I heard from Mr. Uhlig when he returned. He called me up and told me that Mr. Fisch had died.

Mr. Wilentz: All right. Just a minute.

Q. All right. Now, in Fisch's visits to you did you notice whether or not he had a cough? A. Yes, sir.

Q. Did you know he was suffering from consumption? A. Yes, sir—from consumption? I couldn't say, but he had a very bad cold and told me he had consumption himself.

Mr. Wilentz: I move that what he told him be stricken out.

The Court: Yes, that will have to go out.

Q. All right, tell us, please, without telling what he said, what you observed about his general condition of health? A. When he was in my office the first time on August 18, 1933, during our conversation he had a very bad coughing spell, and we got to talk about—

Q. No, not what he said, how long did the cough— A. I asked him what's the matter.

Mr. Wilentz: No.

Q. How long did the coughing spell last? A. For quite some time, I had to wait till he was all done.

Q. Now the second time he came in, did he cough? A. He had, he still had the cough.

Q. About how tall a man was Fisch? A. About my height, five feet five or four, or five foot four or four and a half.

Q. What did he weigh? A. About 140, 145 pounds, approximately.

By the Court:

Q. How tall did you say you thought he was? A. About five foot four and a half.

Q. Five four and a half? A. Yes, or five, five, I couldn't exactly say.

By Mr. Reilly:

Q. I show you— about how much did he weigh when you saw him? Approximately 140, 145 pounds.

Q. I show you Defendant's Exhibit 39 and ask

you if you recognize that as a picture of Fisch? A. No, it looks different.

Mr. Wilentz: The answer is "It looks different?"

The Witness: It looks a little different.

Mr. Wilentz: What was the number of that exhibit, Mr. Reilly?

Mr. Reilly: 39.

Q. Look at Defendant's Exhibit 5 for Identification. Is that the way he looked when he bought the ticket? A. It looks still a little—it is about that.

Mr. Wilentz: "It looks still a little" what?

The Witness: It looked to me a little sharper pointed chin he had.

Q. He had a little sharper pointed chin when he left you? A. Than it looks to me, yes, sir.

Q. But that's his picture, isn't it? A. It looks like him.

Q. Is there any doubt about it? A. Yes, there is.

Q. There is doubt about it? You say the man— A. He had a sharper, sharper look.

Q. When you saw him you mean he had a thinner look? A. Yes.

Q. More wasted? A. His ears was standing off very wide.

Q. And how about his face? A. Very thin and pale.

Q. And his chin was much sharper? A. Pointed, more hollow in the cheeks.

Q. More hollow in the cheeks. But you think— A. It looks like him.

Q. It looks like him. When he was healthier: is that what you mean? A. That may be it. (Examines photograph again.) Yes, he looked more haggard.

Q. He looked more haggard than that? A. Yes.

Mr. Reilly: All right; I think that's all.

Cross Examination by Mr. Wilentz:

Q. On November 14th, 1933, you sold to Mr. Fisch about four hundred and some dollars' worth of traveler checks, did you not? A. Four hundred —to Mr. Fisch?

Q. Yes. A. Four hundred and sixty some odd; four hundred and sixty, and a hundred and sixty for Mr. Uhlig. He took him along too.

Q. Four hundred and sixty? A. Dollars' worth.

Q. To Fisch? A. For Fisch, and a hundred and sixty dollars—

Q. For Uhlig? A. —he took along for Mr. Uhlig. Mr. Uhlig was not there then.

Q. Altogether six hundred dollars' worth? A. Over six hundred; about six hundred and thirty dollars.

Q. And on November the 14th, 1933, don't you know that Hauptmann gave him $2,000 for that very purpose? A. I don't know.

Q. The very same day? A. Well, I don't know. How should I know that?

Q. You didn't know Fisch when he was healthy, did you? A. No.

Q. The only time you saw him was when he looked emaciated. A. In August.

Q. Face drawn. A. Face drawn.

Q. Cheeks pointed. A. Very sick looking.

Q. Skinny and thin. A. Yes.

Q. Now when you say 140 pounds you are guessing about that, aren't you? A. Well, I have to guess that every day dozens of times with passengers when we make out the papers.

Q. Five feet four and a half? A. Five feet five, about.

Q. Very thin? A. Well, he was broad shouldered but thin, no flesh.

Q. Very thin, no flesh. A. No flesh.

Q. In fact, would you be surprised to know that he weighed 120 pounds at that time? A. Well then his clothes must have covered it.

Q. Well, of course his clothes covered whatever weight he had, but would you be surprised to know that he only weighed 120 pounds at that time? A. No.

Q. It is possible. A. It didn't appear to me like that.

Q. You may be mistaken about that. A. Certainly. I guessed the weight.

Q. You may be ten pounds out of the way or twenty pounds? A. Yes.

Q. You weren't here, were you, when Mr. Hauptmann testified that he gave him $2,000 on November the 14th, 1933, to make this trip? A. No, sir.

Q. So you don't know where the money came from? A. No.

Mr. Wilentz: That is all.

Mr. Reilly: That is all, Mr. Steinweg.

(Witness excused.)

Mr. Reilly: Mr. Gustave Muller?

(No response.)

Is Mr. Carl Schwartz here or Mrs. Carl Schwartz?

(No response.)

Mr. Reilly: Is Augustus Lucatus here?

(No response.)

Mr. Reilly: Is Mr. Breckman here?

(No response.)

Mr. Reilly: Your Honor, my witness Mr. Breckman, the last I heard of him was stormbound in Trenton and Mrs. Carl Schwartz was supposed to be here. I think I have used about ten or twelve witnesses today. May I ask your indulgence until tomorrow morning?

The Court: Well, Mr. Reilly, of course I don't need to tell you that it is incumbent upon you to have all of your witnesses here.

Mr. Reilly: Yes, I appreciate that, your Honor.

The Court: Yes.

Mr. Reilly: But I have great difficulty, as you know. They are in New York, here is a storm, trains were delayed this morning one man goes to Trenton thinking he

can get a bus over here, he finds he is stuck over there, he can't get a bus; they are not familiar with the trains and the schedules. They do the best they can.

The Court: Yes.

Mr. Reilly: And it is only fifteen minutes off now.

The Court: Well, you know it to be a fact that you have a witness down here in Trenton who is stuck and who cannot get over here?

Mr. Reilly: Yes, sir, he sent me word through the New York American over here a minute ago. He said he is over there and can't get a bus out of Trenton until 5 o'clock.

The Court: Well, now, I think we may avoid perhaps some future difficulty by having an understanding that you and your staff are to get your witnesses here and to keep them here until we finally conclude.

Mr. Reilly: We bring in about twelve a day, Judge.

The Court: Well, I know, but that opens the way to trouble, only bringing twelve here. Why can't you bring them all, Mr. Reilly?

Mr. Reilly: Well, I will make an effort to bring all that are in New York tomorrow, in New York State.

The Court: Yes.

Mr. Reilly: There are one or two who have volunteered to testify from other states. They are not getting paid a dime for it, you know, Judge.

The Court: Yes.

Mr. Reilly: And we would like to get them in here and get them home the same day. It is cheaper for us. We will order everybody down from New York tomorrow.

The Court: I think you had better do that, Mr. Reilly. Otherwise something unpleasant is likely to occur.

Mr. Reilly: Well, I hope it doesn't happen to the defendant. If your Honor wants to punish anybody, give it to me, because maybe I deserve it.

The Court: We will have to take a recess now until ten o'clock tomorrow morning.

The people will remain seated.

The jury may retire. Let us have quiet and order in the courtroom now until we can finish this day's work.

(At 4:15 p. m. the jury retired.)

The Court: Now the prisoner may retire.

(The prisoner retired in the custody of the Sheriff.)

The Court: We will now take a recess until tomorrow morning at ten o'clock.

(At 4:18 p. m. the further trial of the case was adjourned until tomorrow morning, Wednesday, February 5th, 1935, at ten o'clock.)

STATE vs. HAUPTMANN.

Flemington, N. J., February 6th, 1935.

TWENTY-SIXTH DAY.

Present:
Hon. Thomas W. Trenchard.

Appearances:
Mr. Wilentz,
Mr. Lanigan,
Mr. Hauck,
Mr. Peacock,
Mr. Large,
For the State.

Mr. Reilly,
Mr. Fisher,
Mr. Pope,
Mr. Rosecrans,
For the Defendant.

(10:01 A. M.)

(The jury was polled and all jurors answered present.)

The Court: Counsel may proceed.

Mr. Reilly: Streppone.

SAM STREPPONE, sworn as a witness in behalf of the defendant:

Direct Examination by Mr. Reilly:

Q. Streppone, where do you live? A. 376 East 167th.

Q. Where? A. Bronx, New York.

Q. How long have you lived there? A. Since August 6th, 1934.

Q. What is your business? A. Radio repairer.

Q. What was your business in August, 1934? A. Radio.

Q. What was your business in August, 1933? A. Radio repairer.

Q. I show you Defendant's Exhibit 39 and ask you if you recognize that man? A. I do.

Q. Who is he? A. Isidor Fisch.

Q. Now in connection with your business, did Isidor Fisch come to your radio store? A. On May the 10th, 1933.

Q. Where was your store then? A. 334 East 117th Street.

Q. And when he came there, what did he want you to do? A. He come in with a radio. He told me to test the radio because it didn't light.

Q. Did he leave it there? A. Yes, sir.

Q. Did you make a record of it? A. Yes, sir.

Q. Have you the record? A. Yes, sir. (Handed paper to Mr. Reilly.)

Q. Now, is this a record that you keep in the ordinary course of your business? A. Yes, sir.

Q. And do you keep it on each and every repair job? A. Yes, sir.

Q. And is it the radio record of Isidor Fisch whose picture you have identified? A. Yes, sir.

Q. And when was it made? A. That record was made May 10.

Q. What year? A. 1933.

Mr. Reilly: I offer it in evidence.

Mr. Wilentz: Let me see it.

(Paper handed to Mr. Wilentz.)

The Witness: I got the serial number of that set too.

Mr. Wilentz: I don't think it is competent, if your Honor please, nor do I think it is material. However, I am not going to object to it.

The Reporter: Exhibit D-49.

(Received in evidence and marked Exhibit D-49.)

The Court: Does that record mention some date?

Mr. Reilly: May 10, 1933.

The Court: And that date is supposed to represent the date when the radio machine was made?

Mr. Reilly: No. It was brought in to be repaired.

The Court: Oh, when it was brought in to be repaired. May 10th?

Mr. Reilly: May 10, 1933.

With the Court's permission I will read it to the jury:

Isidor Fisch, May 10, 1933, Wednesday, 10 p. m. Live in furnished room, address refused. Repairs done to R. C. A. model 33 D. C. show box serial 20872, last number scratched off. 1-71 tube 50 cents; one 12 A tube 75 cents; one

25000 ohms resistor 50 cents; labor $1.25, total $3.00.

Q. How many days was this machine in your shop being repaired? A. Five days.

Q. Now, after Fisch came in with this machine on May 10th, when did he come in after that? A. On May 11th, on my daughter's birthday, Thursday, 9:00 p. m.

Q. Did he come in the following Sunday? A. Yes, sir.

Q. What time? A. At 2:00 p. m., May 14th.

Q. Did he have anything with him? A. A package.

Mr. Wilentz: Just a minute— All right.

Mr. Reilly: Any objection?

Mr. Wilentz: No, it is answered.

Q. On May 14th you say that Fisch came in with a package? A. Yes, sir.

Q. That was a Sunday? A. On a Sunday.

Mr. Wilentz: I object to that as not being material, if your Honor please.

The Court: I don't see how it is material.

Mr. Reilly: Well, without— I don't want to make an argument before your Honor that will forestall the testimony of this witness.

The Court: What is he going to—what are you undertaking to show, a general description of this man?

Mr. Reilly: He left it there for six hours and then came back and took it away again.

The Court: Is there any objection to that?

Mr. Wilentz: No, I guess maybe we will save time—description.

By Mr. Reilly:

Q. You didn't open the package, did you? A. No, sir.

Q. He left it there for how many hours? A. From two to, I think, 8:30.

Q. And was it a large or small package? A. About that big (indicating), about the size of a shoe box.

Q. How long?

Mr. Wilentz: I move that last part be stricken out, if your Honor please, characterization of the size as compared with a shoe box.

The Court: It doesn't seem to be responsive, does it?

Mr. Reilly: No, I agree to that.

The Court: Strike it out.

Q. Indicate with your hands about—

Mr. Pope: Just a minute. We don't consent to it being stricken out.

Mr. Wilentz: Mr. Reilly has already done so.

Mr. Pope: Oh, all right.

Mr. Reilly: The radios got mixed, eh?

By Mr. Reilly:

Q. Indicate with your hands the size of the package, the height and the width. A. About this big (indicating).

Q. Wait a minute. We will hold it there until the General and I agree. A. About this big, about that high.

Mr. Reilly: Is that consented to?

Mr. Wilentz: All right.

Mr. Reilly: That is all.

Mr. Wilentz: I will take your judgment on the measurements, Mr. Reilly.

Mr. Reilly: All right. We will say twelve by five or six inches high.

Mr. Wilentz: All right.

Q. You didn't own it? A. No, sir.

Q. He called for it and took it away? A. Yes, sir.

Q. Now, how did you become a witness in this case?

Mr. Wilentz: Oh, I don't think that is material with every witness, if your Honor please.

Mr. Reilly: All right. I will withdraw it.

The Attorney General will very likely ask you, so I will give him the pleasure of that.

Mr. Wilentz: Is that all, Mr. Reilly?

Mr. Reilly: That is all.

Cross-Examination by Mr. Wilentz:

Q. You were adjudged insane some years ago, were you not? A. In 1928, discharged with no psychosis.

Mr. Wilentz: That is all.

Re-Direct Examination by Mr. Reilly:

Q. How long were you there? A. Three months.
Q. Where? A. Central Islip.
Q. And discharged as cured? A. With no psychosis.

Mr. Reilly: That is all.

Re-Cross Examination by Mr. Wilentz:

Q. How many times were you in an institution for mental disorders, how many times? A. A few times.
Q. Eight times, six times, seven times, eight times? A. I will make it about five times.
Q. About five times? A. Yes, sir.
Q. Let's see now, do you mean that it isn't eight? A. Sir.
Q. You mean that it wasn't eight times? A. I will make it about five times.
Q. It might have been eight though, I suppose?

A. Well, if you want to call about a psychopathic ward, that's what I call about five times, yes sir.

Q. Was one of the times due to the fact that you threatened bodily harm to one of the women of the charity organization? A. Yes, sir.

Q. One of the times for writing filthy letters to her? A. Abusive language, yes, sir.

Q. And every time you were in an institution it was because of some mental disorder or complaint. A. Depressed, yes, sir.

Q. You know the terms, do you not, manic-depressive psychosis? That's what they called it, wasn't it? A. Maniac you got to be insane.

Q. Yes, I see; but that's what they called it in the diagnosis? A. Well, that's what the doctors called it.

Q. Yes. And manic-depressive, you called it depressive? A. That's what the doctor called it, depressed, diagnosed it.

Mr. Wilentz: I think, sir, that's all.

Re-Direct Examination by Mr. Reilly:

Q. Well now, irrespective of these visits to the psychopathic ward in any institution, you are now doing business in New York? A. Yes, sir.

Q. Where?

Mr. Wilentz: He has already testified to that.

Mr. Reilly: Well, I have a right to pick him up on it.

Mr. Wilentz: All right, I have no objection, except that it is repetition.

Q. Where are you doing business? A. 376 East 167th Street.

Q. And how long have you been doing business there? A. Since August 6, 1934.

Q. Are you married? A. Yes, sir.

Q. Living with your family? A. Yes, sir.

Q. And you are under no restraint now? A. No, sir.

Mr. Reilly: That is all.

Re-Cross Examination by Mr. Wilentz:

Q. That's why you are here, isn't that so? A. No, sir.

Q. You are here because you are under no restraint. If you were still in the insane asylum you wouldn't be here?

Mr. Reilly: I object to that question.

The Court: The objection is sustained.

Mr. Reilly: If he were insane he would be in an insane asylum.

The Court: The objection is sustained.

Mr. Wilentz: Well, I don't know about that.

Mr. Reilly: Well I do.

Mr. Wilentz: Let me have the card. Where is that card?

The Court: I regret we have to keep complaining about the conduct of the people.

Mr. Reilly: General, I move to strike out your remarks.

Mr. Wilentz: Oh, I consent to it if there is any—

The Court: I don't know what they were, but if you object to them they will be stricken out.

Mr. Wilentz: I am satisfied that they be stricken out.

By Mr. Wilentz:

Q. So you are in business now, are you? A. Radio repairer.

Q. Yes, you have been in business—you weren't in business—when were you in business, 1934? A. I am in business since 1929.

Q. Since 1929? A. Yes, sir.

Q. Well, since that time you have been committed to some institution, haven't you? A. No, sir. In 1929, December 1st, 1928, to January 16th, 1929.

Q. Weren't you admitted to Bellevue Hospital July 5th, 1934? A. I walked in there myself.

Q. Well, whether you walked in or whether you walked in yourself or with anybody else, or on somebody's arm or on a crutch, you were in there, weren't you? A. Yes, sir.

Q. In 1934. A. July.

Q. Yes, sir. A. 1934, right, July 5th, I am crazy too.

Q. So you have been in there since 1928? A. Well, not—up to the State Hospital.

Q. I am talking about the Bellevue Hospital. A. The psychopathic Ward, yes, sir.

Q. Yes, because of a maniacal depressive psychosis. Now, that is since—

Mr. Reilly: Have you an answer to that?

Mr. Wilentz: He said Yes.

Mr. Reilly: No. He didn't say anything to that.

Mr. Wilentz: Well, I disagree with you. He made a statement.

The Court: What does the record show?

(The Reporter read the last question: "I am talking about the Bellevue Hospital. A. The psychopathic ward, yes, sir. Question: Yes, because of a manical depressive psychosis. Now, that is since—")

Q. Well, it was because of a mental disorder, wasn't it? A. Yes, sir.

Q. I think the question is now answered. Now, 1934, the date in July, that was after this instance that you had, that you have on this card? A. Yes, sir.

Q. State's Exhibit S-49. Have you a paper writing from the man that came in to fix the radio? A. No, sir.

Q. You never saw a radio there in his room, did you? A. No, sir.

Q. When did you make out the card that you have? A. The same night.

Q. The same night? A. Yes, sir.

Q. This is the same? A. Yes, sir.

Q. You are not suffering from any— A. No, sir.

Q. —depression now, are you? A. No, sir.

Q. You are all right now? A. I am all right.

Q. Did you come down today or did you come down yesterday? A. I come down yesterday.

Q. Yesterday? A. Yes, sir.

Q. With whom? A. With a Mr. Weiss.

Q. Mr. Weiss? A. Yes, sir.

Q. Mr. Malcolm Weiss? A. Weiss was his last name; that's all I know.

Q. From Mr. Reilly's office? A. Yes, sir.

Q. Where did you stay last night? A. Where did I stay last night?

Q. Yes. A. In town.

Q. Where? A. In the linen shop, what they call it over here.

Q. What? A. A boarding house.

Mr. Wilentz: That's all, sir.

Mr. Reilly: That's all.

By Mr. Wilentz:

Q. Were you in the courtroom yesterday? A. Yes, sir; all afternoon.

Mr. Wilentz: Yes, sir; thank you.

By Mr. Reilly:

Q. How long did you stay in the psychopathic ward in Bellevue in July? A. Five days, the 5th to the 10th.

Mr. Fisher: Lieutenant Sjostrom.

E. PAUL SJOSTROM, sworn as a witness on behalf of the defendant:

The Court: What is the witness's name?

The Witness: Sjostrom, S-j-o-s-t-r-o-m.

The Court: Now then, Mr. Fisher, what is the trouble?

Mr. Fisher: I have asked to have the ladder brought into court and it seems for some reason to offend the Attorney General. I don't know what the reason is.

Mr. Wilentz: May I say that the Attorney General is not offended at anything Mr. Fisher does or says. The request was made to produce the ladder. Mr. Fisher knows that at his request the ladder is in the possession of the County Clerk.

Mr. Fisher: I can explain it very easily.

Mr. Wilentz: This exhibit is in the possession of the County Clerk, as your Honor knows, at their request.

Mr. Fisher: May we have the County Clerk produce it?

The Court: Yes.

Mr. Fisher: Very good.

The Court: I rather assume that you want to use this ladder now in the examination of some witness. Is that it?

Mr. Fisher: That is right, sir, this one or the next one.

The Court: Yes. Well, the clerk will be good enough to produce the ladder in court.

Mr. Pope: If your Honor please, I think at this time the record ought to show, so we won't have any dispute about it later on, the true term that Mr. Wilentz used; we understood him to call it maniac depressive psychosis. I don't think he meant that. The true term is manic, m-a-n-i-c, depressive psychosis.

The Court: Well, I don't think it is appropriate for you and the Attorney General now to argue about that. That is a subject matter which ought to have been touched upon when the witness was upon the stand, unless you and the Attorney General can agree about the term.

Mr. Pope: We would like to have the right term on the record, that is all. It might make quite a difference.

The Court: The record is there and it is a record that was produced by the examination of that witness. There it is. Now, if you and the Attorney General can agree upon the—

Mr. Pope: Can we agree upon that, Mr. Attorney General?

Mr. Wilentz: I am willing to discuss it at the noon recess.

Mr. Pope: M-a-n-ia?

Mr. Wilentz: I am willing to discuss it with counsel at the noon recess.

The Court: Yes. I think you had better do that.

Mr. Wilentz: And I will be glad to go over my records with them.

The Court: Take it up with the Attorney General at the noon recess and maybe you can agree upon something.

Mr. Pope: All right.

Direct Examination by Mr. Fisher:

Q. May I have your full name, sir? A. E. Paul Sjostrom.

Q. E. Paul Sjostrom? A. Yes, sir.

Q. And what is your official capacity in the New Jersey State Police? A. Assistant Supervisor, State Bureau of Identification, Department of State Police.

Q. And what rank does that carry? A. A lieutenant.

Q. Lieutenant Sjostrom? A. Yes, sir.

Q. You are assistant to Captain Snook? A. Yes, sir.

Q. Who was on the stand a day or so ago? A. Yes, sir.

Q. Is that correct? A. Yes, sir.

Q. Now, in your official capacity did you have at any time in your control the ladder found at the Lindbergh home the night of the kidnaping? A. No, sir.

Q. Did you have in your custody or control any records in connection with the ladder? By that I mean measurements, records of measurements of the ladder? A. No, sir.

Q. Did you have in your custody or control any pictures of the ladder? A. In what respect?

Q. General pictures, now. I refer to photographs of the ladder. A. No, sir.

Q. Did you have in your custody or control or under your supervision any finger print photographs of the ladder? A. Yes, sir.

Q. There were finger print photographs taken of this ladder, were there, Lieutenant? A. Yes, sir.

Q. By whom? A. Sergeant Kuebler.

Q. Sergeant Kuebler? A. Yes, sir.

Q. And he is a member of the New Jersey State Police force? A. Yes, sir.

Q. And under you in the Identification Bureau? A. Under Captain Snook.

Q. And— A. He is not in the Bureau; he is in the Troop Bureau, D Troop.

Q. Does he come under your supervision at all, your superior officer? A. Yes, sir.

Q. Were you present when the pictures were taken? A. No, sir.

Q. To whom were they delivered after they were taken and developed? A. To me.

Q. To you? A. Yes, sir.

Q. And have they since been in your custody and control? A. Yes, sir.

Q. And do you have them here today? A. I don't know whether they are here today. I don't know. Not to my knowledge.

Q. Did you bring them today? A. No, sir.

Q. Did you see them in court today? A. No, sir.

Q. Did you see them here yesterday? A. Yes, sir.

Q. And in whose custody were they when you saw them? A. Captain Snook.

Q. Captain Snook's custody?

Mr. Fisher: Do you have those pictures, Captain? Will you produce those pictures?

Mr. Wilentz: Yes, if we have them you can have them. I would like to have a little notice when they are wanted.

Mr. Fisher: I thought I had given that notice both by subpoena and by personal notice to the Attorney General. I don't know why this should come in every time I question the witness.

The Court: Are the finger print photographs here in court?

Mr. Wilentz: We will send for them, your Honor please.

The Court: They will be produced. You may proceed, Mr. Fisher.

Q. What was photographed by way of finger print pictures? A. Well, I wasn't at the scene when it was photographed.

Q. Well, did you ever examine them, Lieutenant? A. Yes, sir.

Q. Well, then, what was it, what did it show? A. It showed a number of finger marks.

Q. As to the ladder, did it show the side rails, the rungs, or the ladder as a unit? A. No, sir.

Q. What did it show? A. It showed small photographs of fingermarks.

Q. But if you took— how big is a fingerprint photograph, Lieutenant? A. Two and a quarter by three and a quarter.

Q. Yes. That is a very small picture, isn't it? A. Yes, sir.

Q. Now, to take the rail of a ladder, you would have to take a number of those, wouldn't you? A. Yes, sir.

Q. I understand the length of the rail of a ladder is about six, about six feet and a half. That would require about six photographs to the foot, wouldn't it, two and a quarter in one direction? A. Well, it depends on what you took.

Q. Well, assuming you took a piece of running board, like any one of the rails of this ladder (Exhibit S-211).

Q. Is that rail 16 in the ladder? A. Sixteen, I don't know.

Mr. Fisher: Can we get any help in that, Captain? Is that 16, what is designated as 16 in the ladder? I don't see the designation on there. I looked for it, but I don't see it.

Captain Snook: There it is.

Mr. Fisher: Oh, yes; there it is.

Q. Now, if you wanted to photograph a surface like rail 16— what is the dimension of that rail? A. It is about three inches wide.

Q. Yes. A. I don't know what the exact dimensions are.

Q. Well, would your fingerprint camera take a small section of that entire rail like that? A. Yes, sir.

Q. It will take the full width of it? A. Not exactly the full width, no.

Q. Well, how close will it come to taking it?

Mr. Fisher: Is there a rule here or measure, so we can see exactly what this is?

A. I don't know.

Q. You say it will take three and a quarter wide

by— A. The negative is two and a quarter by three and a quarter.

Q. Two and a quarter by three and a quarter.

Mr. Fisher: Is there a measure or a rule here or anything? Have you a rule of any kind?

Q. Well, in any event, you would take your photograph fingerprint camera and you would place it against the section of this rail like that (indicating) and take the picture, is that right? A. It depends on if there were any finger marks there. We wouldn't take the photograph unless there was a finger mark showing in that particular place.

Q. Do you mean, Lieutenant, that you didn't take a picture of this rail from here down to here (indicating)? A. No, sir.

Q. You didn't do that? A. Well now, it wasn't done as far as I know.

Q. You say then— A. I didn't take the photographs.

Q. But so far as you know there was just a photograph taken here and one here and one somewhere else, is that right? A. Wherever finger marks were shown.

Q. All right. Now let me ask you, if that is true, how would you then determine from your photograph on which particular section of the rail the photograph was taken? A. The negatives were cut to determine that; the packs come in that way.

Q. Do you mean to say that if you took a picture of two and a quarter inches in here, and you took none here, nor none here (indicating), you could determine exactly what part of the rail that picture was taken from? A. What part of the ladder.

Q. Of course, but about the rail; what part of the rail? A. No.

Q. So that you wouldn't know from your pictures then whether a fingerprint was on the extreme end of the ladder here or the extreme end of the ladder down here (indicating)? A. No, sir.

Q. No way of knowing at all? A. No, sir.

Q. Did that seem to you to be important; to know in what part of the ladder the fingerprints were found? A. No, sir.

Q. That didn't seem to have any significance at all? A. No, sir.

Q. I see. So that a print on the bottom meant just as much to you as a print on the very top? A. Yes, sir.

Q. And whether there were fifty prints in the third section and two in the second section and none on the first section, that wasn't important, either? A. Yes, that was determined.

Q. Could you tell by the method you are talking about, if you had these one on top of the other, whether the print was from right here or right here (indicating)? A. No, sir.

Q. Then to that extent you couldn't even tell what section it was from, could you? A. Yes, sir; could tell from the section.

Q. How many photographs were taken? A. Sixty-eight.

Q. Sixty-eight all together? A. Yes, sir.

Q. Over the entire ladder? A. Yes, sir.

Q. Do you mean by that, Lieutenant, that there are only sixty-eight finger prints on the ladder? A. I saw sixty-eight photographs.

Q. I am asking you now about finger prints. A. Well, there were approximately about 125 finger marks shown on those sixty-eight photographs.

Q. I see. And some of them were close enough together that you were able to catch two or three prints in one photograph? A. Yes, sir.

Q. What about palm prints? Were there any on there? A. Yes, sir.

Q. And did you include those in your photographs? A. Yes, sir.

Q. Was your camera big enough to get an entire palm print? A. There was no entire palm print shown, just a part of it.

Q. Assuming the ladder was taken hold of like this (indicating)— A. Yes, sir.

Q. —would one picture get that entire print? A. Possibly, what would show.

Q. I see. It would go right on through the board and get this side, too? A. Oh, no; no.

Q. Then it wouldn't get— A. You are speaking about the palm, and the sides of the fingers.

Q. Then it wouldn't get the entire print, everything that was left on the print? A. It would get the palm.

Q. Would one picture get it all? A. Altogether? No, sir.

Q. So that in some instances, then, you might have to take two photographs to get one complete picture of a hand that touched the ladder? A. Possibly.

Q. And altogether you say you took only sixty-eight photographs? A. I didn't take any.

Q. There were only sixty-eight taken? A. Sixty-eight was delivered to me, different negatives.

Q. Now, do you know, Lieutenant, when those pictures were taken? A. Yes, sir.

Q. When? A. 21st day of March, 1932.

Q. Do you know why they weren't taken before? A. Do I know why?

Q. Yes. A. No, sir.

Q. Well, now, don't you know why? A. No, sir.

Q. Don't you know, as a matter of fact, that your own department failed to find any finger prints

on that ladder for thirteen days? A. They didn't find it with the process that they used, because there weren't any.

Q. Because there weren't any what? A. There weren't any finger prints.

Q. Well, then, where did the one hundred and twenty come from? A. Well, there were several hundred people handled that ladder between the 1st of March and the time that it was processed with the silver nitrate.

Q. But there weren't some hundred and some people between five minutes before Hudson got there and five minutes after he got there, were there? A. What— I wouldn't say about that. I wasn't there when Hudson examined it.

Q. And the ladder was in the sole custody of your department, wasn't it, at that department, you or Mr. Kelly? A. As far as I know; yes, sir.

Q. And after thirteen days Mr. Kelly had failed to find any finger prints, hadn't he? A. There weren't any to be found.

Q. You say that after thirteen days there weren't any prints to be found? A. Well, after thirteen days so many people had handled it.

Q. Well, why— on the 12th day did Kelly find any on there? A. I don't know what day the ladder was processed.

Q. On the 10th day— A. I don't know.

Q. —did Kelly find any? A. I don't know.

Q. In other words, one day there were no prints on there and the next day Dr. Hudson took off considerable? A. No; no.

Mr. Wilentz: Just a minute; that is not the fact.

The Witness: That is not so. The ladder was entirely processed when found at the scene

of the crime. No fingerprints were found on the ladder, and in between the time that that ladder was processed and the processing with silver nitrate, several hundred people had handled that ladder.

By Mr. Fisher:

Q. I see. Now, at the time it was first processed by Kelly there wasn't a print of any kind on it? A. No, sir.

Q. Did you hear Sergeant Bornmann say that he carried the ladder in from outdoors to the house? A. I wasn't here.

Q. Well, somebody carried it in to where Kelly processed it. A. I understand they wore gloves when they did that.

Q. You understand the trooper wore gloves? A. I understand so. I don't know.

Q. And you think that no one touched that ladder from the time it was found until the 13th day of March, 1932, unless they had gloves on; is that right? A. No. Hundreds of people handled that ladder between the commission of the crime when it was processed by Kelly and the 13th of March.

Q. Was it processed only once by Kelly? A. What Kelly did I don't know.

Q. Did you hear Colonel Schwarzkopf say he sent him back to process everything again for fingerprints? A. I wasn't there.

Q. And afterwards when Dr. Hudson processed it he found a considerable number of fingerprints? A. Dr. Hudson didn't process that ladder. He demonstrated the process only.

Q. Were you there when Kuebler and Kelly and Dr. Hudson were together on this ladder? A. No, but I know what my subordinates—

Q. Yes, what they told you? A. Yes.

Q. But he did come over there, didn't he— Dr. Hudson? A. I wasn't there when he came, not to my knowledge.

Q. Did you— A. I know that he was there.

Q. Did you ever see Dr. Hudson at all? A. Yes, sir.

Q. And as a result of Dr. Hudson's advice and assistance, fingerprints were developed on that ladder, that's true, isn't it?

Mr. Wilentz: Well, that has been answered, if your Honor please, so many times, and there is no dispute that some fingerprints were developed later on; the dates have been given, following Dr. Hudson's call there; and that he was there.

The Court: I think that does appear, Mr. Fisher, from the testimony.

Mr. Fisher: Very good; very good, sir.

Q. Now, did Dr. Hudson also demonstrate how to take fingerprints off paper? A. I don't know. I wasn't there.

Q. Do you know whether Dr. Hudson was ever shown the original ransom notes for the purpose of taking prints off? A. I do not know.

Q. Were the ransom notes ever in your custody, the original ransom notes? A. Yes, sir.

Q. And when in your custody did you ever submit them to Dr. Hudson? A. Not in my custody, no.

Q. Captain Snooks'? A. Yes, sir.

Q. Did you personally ever submit those to Dr. Hudson? A. No, sir.

Q. Of your knowledge were they ever submitted to anyone except to members of your own depart-

ment for the purpose of fingerprinting? A. Not that I know of.

Mr. Fisher: Do you have those fingerprint photographs now? Are they here now?

Mr. Wilentz: Are they here, Captain? Give them to Mr. Fisher.

(Captain Snooks hands Mr. Fisher some photographs.)

By Mr. Fisher:

Q. Are these all the photographs you have any knowledge of? A. Yes, sir.

Q. Did you ever advise Dr. Hudson over 1,200 prints were taken? A. No. sir.

Q. Do you know whether over 1,200 photographs were taken— A. No, sir.

Q.—of the ladder? A. They never were.

Q. So that you didn't think it necessary to take an entire strip of this ladder for the purpose of knowing exactly where the print was found on the ladder? A. We— in taking photographs of fingerprints, fingermarks and fingerprints, we only take what we actually see there to be a finger mark.

Mr. Fisher: Will you ask the witness the question?

(The Reporter: "Q. So that you didn't think it necessary to take an entire strip of this ladder for the purpose of knowing exactly where the print was found on the ladder?")

A. No, sir.

Q. Now, will you show me which of those refer

to rail 16? A. I can't tell you which refers to that particular rail.

Q. Well, I thought you told me that you could, Lieutenant, tell me exactly which rail these came from, any picture it was taken from? A. No, sir; sections.

Q. Section? A. Yes, sir.

Q. Then, you mean that you aren't able to tell from your picture whether it is from this rail, or this rail in the third section (indicating)? A. No, sir.

Q. Not even which side of the ladder it comes from? A. No, sir.

Q. Well, will you pick me out those that refer to Section 3 of the ladder? A. (Witness examines photographs and hands some to Mr. Fisher.)

The Court: The officers might give us just a little bit of fresh air from the tops of the rear windows. The air is getting very bad in here.

By Mr. Fisher:

Q. Now, these, what—

The Court: Just a little bit, we are not getting any air in here now as far as I can discover. Just a little bit from the tops of the rear windows. I think I interrupted somebody. I am sorry about it.

Mr. Fisher: It is quite all right, sir.

Q. Now, the ones you have handed me, 1, 2, 3, 4, 5, 6, 7, 8, 9, you say are all the fingerprint photographs ever taken of the side rail of Section 3 of this ladder? A. No, the whole ladder, not including the— including the—

Q. Rungs and all? A. Rungs, too; yes, sir.

Q. So that you took only nine photographs of the entire third section of the ladder? A. Possibly.

Q. Do you know how many running inches there are in that ladder? A. No sir, I do not.

Q. But, you have taken nine photographs of two and a quarter each in length, is that right? A. Yes, sir.

Q. Out of the entire piece? A. Yes, sir. I didn't take them, no.

Q. But I mean in your custody? A. They were taken in my custody, yes.

Q. And to your knowledge, that's all that was taken? A. Yes, sir.

Q. And you don't know which side of the ladder, or rungs, or anything about where these pictures are located? A. No, sir.

Q. You couldn't tell me, for instance, whether that is a picture of a side rail or a rung (showing photograph)? A. No, sir.

Q. Or of the front or the back? A. No, sir.

Q. Or the inside or the out? A. No, sir.

Q. Just nine pictures of something on that section? A. Yes.

Mr. Wilentz: Oh, if your Honor please, he has already answered that about ten times—nine pictures.

The Court: Yes, he has. I wouldn't pursue that any further, Mr. Fisher.

By Mr. Fisher:

Q. Now, what is there about these that identify them as coming from Section 3? A. Cuts.

Q. Cuts at the top? A. Right here.

Q. That means that it is Section 3? A. From Section 3.

Q. From Section 3. And how are the others? For instance, this one (showing photograph). What section is that from and what indicates it? A. Section 3. That's one I missed.

Q. That's what I thought. So that also is from Section 3, isn't it? A. Yes, sir.

Q. So that now we have found another one from Section 3. Now, that one, tell me what section that's from (showing another photograph)? A. This is from Section 2 and 3.

Q. Section 2 and 3? A. 2 and 3, taken together.

Q. Where they join, you mean, Lieutenant? A. Yes, sir; 2 and 3.

Q. That would be here and here, where they come together? A. 2 and 3.

Q. Oh, 2 and 3? A. 2 and 3, yes.

Q. Where they join? A. Well, I don't know just exactly; I wasn't present at the taking of these photographs. That's just the way I identify them.

Q. What do you mean as taken from Section 2 and 3? A. 2 and 3. Now, whether they were taken from 2 and 3, I don't know; I didn't take these photographs.

Q. In other words, you don't know what that is a picture of, do you? A. Yes, that from Section 2, 2 or 3.

Q. 2 or 3? A. 2 or 3.

Q. Oh. 2 or 3. A. 2 or 3; yes, sir.

Q. I thought you said two and three. A. No, two or three.

Q. Now, that finger print would clearly indicate nail holes in the wood if any had been present where the picture was taken, wouldn't it? A. Possibly.

Q. Well, do you know whether it would or not, Lieutenant? Suppose we put the finger print photograph over this spot right here, would it show that

nail hole? A. I don't know how it would show, if it would.

Mr. Wilentz: We can't hear a word you are saying. This isn't a secret, you know. Answer the question.

A. I don't know whether it would or not.

Q. You mean to say now you don't know if you took the picture— A. Whether it would show up as a nail hole or something else, I don't know how it would show on the picture.

Q. You mean to say if we should put a finger print camera over that spot for the purpose of taking a picture, you don't know if it would show that nail hole or not? A. I don't know if it would show as a nail hole, it would show that possibly.

Q. What would it show if it didn't show as the thing that is taken, what would it show as, if it didn't show as a nail hole? A. Well, I don't know. I haven't seen the photograph.

Q. Will you look through all those that you say come from Section 3 and see if you can find anything that indicates a nail hole? A. (Witness does as requested.)

A. (Witness examines photographs at length.) No, sir; I can't say that—

Q. Nothing there that indicates it? A. I can't say.

Mr. Fisher: I would like to offer the photographs which he says are Section 3.

(The photographs consisting of a set of ten were received in evidence and marked Defense Exhibit D-50 to D-59, respectively.)

Q. Now, where there is some surface other than

straight board, it is indicated in the photograph, the dowel pin holes or whatever they are, these down here— what are they? A. They are nails, nail heads.

By Mr. Wilentz:

Q. Will you please permit us to hear your answer? A. Yes, sir.

By Mr. Fisher:

Q. When there is a nailhead showing it stands out very clearly, doesn't it? A. Yes, sir.

Q. So that when the nail is in the hole you can easily distinguish it? A. Yes, sir.

Q. When the nail was out of the hole, isn't it your idea that you could also distinguish a nail hole? A. Possibly.

Q. Yes.

Mr. Fisher: Now, I offer the whole group. I don't know how many of these there are.

The Reporter: Do you want them all marked separately?

Mr. Fisher: I will offer them as one group, one exhibit, if your Honor please. I think there are 56 or 58.

The Court: If there is no objection, they may be admitted.

(The photographs were received in evidence and marked Defense Exhibit D-60.)

Q. Now, Lieutenant, you ran down the finger

prints that you found on that ladder, didn't you, eliminated one by one, searched out the identity of the people whose prints you found? A. Some.

Q. Well, as far as possible, didn't you? A. As far as possible.

Q. Yes. How many prints did you identify on there out of the hundred and some that were found? A. About eight.

Q. Now, did you identify on the ladder at any time down to the present day the fingerprint of this defendant, Richard Hauptmann? A. No, sir.

Mr. Fisher: Take the witness, Mr. Attorney General.

Cross-Examination by Mr. Wilentz:

Q. If this defendant, Mr. Hauptmann, wore gloves when he was handling that ladder, would his fingerprints show? A. No, sir.

Q. Is it not a fact, Lieutenant, that your experience shows to you that men who are experienced in crimes use gloves? A. Yes, sir.

Mr. Wilentz: That is all.

Re-Direct Examination by Mr. Fisher:

Q. Your experience is, Lieutenant, that mothers in putting children to bed and nurses in putting children to bed don't wear gloves, do they? A. That is not my experience. I don't know.

Mr. Fisher: That is all.

Re-Cross Examination by Mr. Wilentz:

Q. You have never been a nurse, have you? A. No.

By Mr. Fisher:

Q. Nor a mother neither, I take it? A. No, sir.

Q. In closing windows in nursery rooms the parent or the nurse doesn't ordinarly wear gloves, does she? A. No.

Q. In your experience— A. Not that I know of.

Mr. Fisher: That is all.

By Mr. Wilentz:

Q. Everybody that handles a window doesn't leave a fingerprint that is distinguishable, isn't that so? A. No, sir.

Q. And even where there is a fingerprint— for instance, the gentleman of the defense that just questioned you had his hands on the ladder. If I put my hands on the ladder and it so happens that my fingers touch the spot where he had already handled it, would that interfere with the print that he made? A. It would be of no value whatsoever.

Q. So that there are very many things that happen with reference to prints that might and do obliterate them? A. Yes, sir.

Q. Where there is, however, a fingerprint and it is not interfered with and it is not obliterated, it ought to show up in response to a proper test, isn't that right? A. Not always.

Q. Well, if it isn't smudged and if it isn't smeared? A. Yes; yes.

Q. In other words, supposing I were to handle the ladder, as I am going to do now, by touching it;

would that merely touching and handling of it necessarily take with it and bring with it a distinguishable fingerprint? A. No, sir.

Q. When you say finger mark, do you distinguish that? A. Yes, sir.

Q. Between— A. Yes, sir.

Q. I see. A. A fingerprint is ridges that could be identified. A fingermark is just a mark.

Q. I see. A. Of which no identification is possible.

Mr. Wilentz: I see. I think that's all.

By Mr. Fisher:

Q. Isn't wood, Lieutenant, the most receptive of substances for the retention of a fingerprint? A. That I don't know.

Q. Don't they remain in wood, stay in wood, longer than any other substance that you know? A. I don't know; I don't know all substances; I couldn't say.

Q. Compare it with paper. Don't they stay much longer in wood than in paper? A. I wouldn't say as to that.

Q. As a matter of fact, Lieutenant, don't you know— A. No; I don't.

Q. —that a fingerprint on wood, with the acid method, can be taken and sandpapered, the original print sandpapered off, and then the print still brought out? A. It depends on how it is etched.

Q. Sandpaper the surface off, so that the original print has been brought out— has disappeared entirely; don't you know that by the use of the acid process you can bring that print back so that it is distinguishable again? A. No, sir; I do not.

Q. You don't know that? A. No, sir.

Q. Very good. That's all.

Re-Cross Examination by Mr. Wilentz:

Q. Whatever it was, the acid process you speak of, that wasn't known on March the 1st, was it? A. No acid process that I know of.

Mr. Wilentz: All right. That's all.

Re-Direct Examination by Mr. Fisher:

Q. I referred to the silver nitrate process. A. Oh—

By Mr. Wilentz:

Q. Well, that is what I took it counsel was referring to, the silver nitrate process was not known to the State Police on March 1st or March the 2nd? A. No, sir.

By Mr. Fisher:

Q. But they found it out on March the 13th, didn't they? A. As far as I know.

By Mr. Wilentz:

Q. That was after the Crime Commission and everybody else had handled the ladder? A. Several hundred people had handled the ladder.

Q. That was the Governor's Crime Commission, wasn't it? A. Yes, sir.

Mr. Fisher: Sergeant Kubler, Sergeant, is he?

LOUIS KUBLER, sworn as witness on behalf of the defense.

Direct Examination by Mr. Fisher:

Q. What is your rank? A. Sergeant.

Q. Sergeant. And to what department of the State Police are you connected? A. Troop B, Identification Bureau.

Q. Identification? A. Yes.

Q. And do you work under the command of Captain Snook and Lieutenant Sjostrom, who just left the stand? A. Yes, sir.

Q. As an officer in the Identification Bureau of the New Jersey State Police, were you at the Lindbergh home in March, 1932? A. After March 10th; yes, sir.

Q. After March the 10th? A. Yes, sir.

Q. You weren't there before March the 10th? A. No, sir.

Q. Were you there on March the 12th or 13th, when Dr. Hudson, of New York City, came down to the Lindbergh home? A. I was.

Q. Who was with you there at the time? A. Trooper Kelly.

Q. Had you and Kelly made any experiments with the ladder as to finger prints up to that time? A. Trooper Kelly had; yes, sir.

Q. Trooper Kelly had? A. Yes, sir.

Q. And when had he made those, if you know? A. I do not know.

Q. Had you made any experiments of any kind on the ladder up to that time? A. No, sir.

Q. You hadn't made any effort to find finger prints on it? A. No, sir.

Q. You are an identification man, aren't you? A. Yes, sir.

Q. And you had been there since the 10th? A. Yes, sir.

Q. And when did Hudson come down? A. Either the 12th or the 14th.

Q. 12th or the 14th? A. Yes, sir.

Q. So that although you were the identification man you had been in the home there for at least forty-eight hours and you made no effort to find a finger print on the ladder, is that so? A. I did not.

Q. I see. Now, what about finger prints on the house, the Lindbergh house, especially the nursery room, had you made any efforts to pick prints up there? A. I did not.

Q. Just what were you doing down there in your line, identification line, from the 10th of March until the 12th or 14th of March. A. I was on routine duty at the Lindbergh home.

Q. Away from your identification work? A. Yes, sir.

Q. Same work that anybody else in your troop, any regular trooper in your troop or a regular sergeant in your troop might be doing, police work? A. That is right; yes, sir.

Q. Now, when Dr. Hudson came down did you see him? A. I did.

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

Q. Where did you and Kelly and Dr. Hudson go in relation to the Lindbergh house? A. In the back yard.

Q. Out in the back yard? A. Yes, sir.

Q. At any time did you go down into the cellar or a wash room into the basement? A. We did; yes, sir.

Q. But first you went out in the back yard? A. That is right.

Q. Now, what was Dr. Hudson down there for, what were you and Kelly doing with Dr. Hudson? A. He was to demonstrate a new process known as a silver nitrate process to bring out latent finger prints on wood.

Q. The experiment was to be as to finger prints on wood. A. That is right.

Q. Is that correct? A. Yes, sir.

Q. Now, in furtherance of that you went down into the Lindbergh basement or laundry or tub room, or whatever we want to call it, is that right? A. That is right.

Q. And did you take the kidnap ladder down there with you? A. It was down there.

Q. It was already there, the same ladder as you see in back of you now? A. Yes, sir.

Q. And what happened when you got down there? A. Dr. Hudson first made a demonstration on two other pieces of wood.

Q. Yes. A. With the silver nitrate.

Mr. Wilentz: A little louder, please.

A. He demonstrated to us how to apply the silver nitrate and the procedure necessary after the silver nitrate was applied.

Q. Yes. A. We then went out in the back yard with the ladder, with one section of the ladder.

Q. Which section, if you know? A. I don't recall. And we made an examination of part of that section in the back yard.

Q. Using the silver nitrate method? A. Using the silver nitrate method.

Q. Who did the demonstrating? A. Dr. Hudson.

Q. He actually did the work on that section of the ladder? A. On part of it; yes, sir.

Q. Yes; all right. Then to that extent he did the work, didn't he. A. Yes, sir.

Q. Then what happened; did any prints develop? A. A few, yes; not prints; fingermarks.

Q. Fingermarks. Any prints, any readable prints develop? A. At that time; no, sir.

Q. Then what did you do? A. Dr. Hudson left us.

Q. Go back down in the basement with you again? A. Yes, just for a few minutes; then he went home.

Q. Well, did he explain the process to you before he left? A. He had before that; yes, sir.

Q. And after he left what did you and Kelly do? A. I continued the process during the course of the next week on the ladder.

Q. How long did it take to apply to a given section, say, a side rail, the silver nitrate process? A. It doesn't take but a few minutes to apply it. It takes some time to bring the prints out.

Q. You mean you have to put it on and let it stand a while? A. Yes.

Q. How long does it take to bring the print to the surface? A. With artificial light, ten or fifteen minutes.

Q. That is by violet ray? A. Yes. With ordinary sunlight it may take two or three hours to bring it out.

Q. So you say it took you a week to process the rest of the ladder? A. Off and on.

Q. And did you work on it steadily? A. No, I didn't.

Q. Wasn't that considered important, processing the ladder at that time? A. Yes, sir.

Q. Why, then, didn't you stay right with the job until it was finished? A. Other duties came up at the same time.

Q. I see. And there weren't any other officers to take care of those duties except you; is that correct? A. That's correct.

Q. So that you left the job of processing the kidnap ladder for fingerprints and went to something else, is that correct? A. Yes, sir.

Q. Now, eventually, you did complete, however, the processing of the ladder, didn't you? A. I did.

Q. How many prints were brought out? A.

About 120 or 25; I don't recall the exact number.

Q. You mean prints when you say that? A. No, I mean finger markings.

Q. How many prints were brought out? A. Not more than 25 or 30, readable prints.

Q. Now, as a matter of fact, Sergeant, don't you know that a superior of yours wrote to Dr. Hudson and told him that there were over 500 markings found? A. I don't know.

Q. You don't know. But do you say definitely that there weren't 500 markings found? A. Absolutely; yes, sir.

Q. You say that the total number of markings was 125 or thereabouts? A. About that number, yes.

Q. Now what color did the silver nitrate leave the lumber? A. Always red.

Q. Always red? A. Yes, sir.

Q. How do you get the lumber back then to the color that it is now? A. How did I get it back?

Q. How does the lumber get back to the color that it is now? A. With a solution of bichloride of mercury.

Q. You mean you washed the surface of the ladder with a solution of bichloride of mercury? A. Yes, sir.

Q. And does that have any effect on the prints that are on the ladder? A. They disappear; yes, sir.

Q. It tends to completely and permanently eradicate those prints from the ladder, doesn't it? A. Yes, sir.

Q. So that 20 minutes after the wash with bichloride of mercury, there wouldn't be a sign of any man's print on that ladder, would there? A. No, sir; there would not.

Q. How long would fingerprints stay in wood, Sergeant? A. I do not know.

Q. Well, as an identification man, don't you know that it is possible to take prints from wood for a period of years? A. I don't know that.

Q. Do you know that it is very easy to take a print out of wood six months after it has been placed there? A. I wouldn't say that, no.

Q. Well, would you say you don't know, or you wouldn't say it was true?

Mr. Wilentz: Well now, if your Honor please, it is his witness and I don't think counsel ought to quarrel with him.

Mr. Fisher: I am not quarreling, sir. We are getting along very nicely.

Mr. Wilentz: He gets an answer and—

The Court: Let the witness answer the question.

A. I don't know.

Q. No. Now what day, if you know, was this ladder washed with a process which destroyed forever fingerprints on the wood? A. I don't know who washed it or when it was washed.

Q. You don't know that? A. No.

Q. You didn't do it? A. I did not.

Q. But you can tell by looking at it that it has been washed? A. I cannot.

Q. Well, why did you mention this color business when I asked you a while ago? A. You asked me what color silver nitrate left when it was applied.

Q. Yes; and then I asked you how it got back to this color? A. You did not.

Q. Well, I will ask you now, how did it get back to this color? A. I don't know.

Q. That isn't the way it was left when it was

finished with the silver nitrate treatment, is it? A. No, sir.

Q. No. And do you say now that you don't know whether or not a solution of bichloride of mercury was used to wash that ladder? A. To my knowledge, I do not know.

Q. You don't know. You didn't say to me just a while ago that a solution had been used to wash that, did you? A. Not this ladder, no, sir.

Q. I see. Well, that is the only ladder found in the Lindbergh house that night, isn't it? A. I understood you to ask me what would take the color off, and I explained to you.

Q. I ask you now what did take the color off? A. This ladder?

Q. Yes. A. I don't know.

Q. You don't know. But you do know that it isn't the color that you left, don't you? A. It is not.

Q. That's right. Now who took the pictures, Sergeant? A. I did.

Q. Of the ladder? A. I did.

Q. You took them? A. Yes, sir.

Q. How many did you take? A. About 70, 68 or 70.

Q. Do you know whether or not Dr. Hudson was advised by your department that over 1,200 exposures were made? A. I know nothing of it.

Q. From the pictures you personally took of this ladder, could you tell, for instance, what section, what part of Section 3 any given print was found on? A. I could not; no, sir.

Q. Could you tell whether it was found on a rail or a rung? A. No, sir.

Q. Could you tell whether it was found on the left rail or the right rail? A. I could not; no, sir.

Q. No way of knowing where the print was found on this section of the ladder? A. No, sir.

Q. Did it occur to you that if you fingerprinted

the entire ladder you would be able to definitely put your hand on the spot where the print was at any time? A. You don't photograph fingerprints in that manner.

Q. Did it occur to you that if you photographed the entire ladder you would be able to locate within the inch of any section of the ladder just where that print was?

Mr. Wilentz: If your Honor please, I object to that.

The Court: You are leading and the witness is your witness. I shall have to exclude the question.

Mr. Fisher: Very good, sir.

By Mr. Fisher:

Q. Now, did you ever take, personally, the lumber in that ladder to the city of Washington? A. Did not.

Q. Do you have any knowledge of that being taken there, any personal knowledge of it being taken to Washington? A. Only hearsay.

Q. Only hearsay? A. (Nods head.)

Q. Now, did you ever use the silver nitrate process prior to Dr. Hudson's visit? A. It was unknown.

Q. So that Dr. Hudson came down there and introduced to you something that was entirely unknown to the fingerprint science until that minute; is that correct? A. I wouldn't say that.

Q. Well— A. To the police authorities.

Q. It was unknown to your department anyway? A. That is right.

Q. And under his supervision you learned that you could develop fingerprints with silver nitrate on wood, didn't you? A. That is right; yes, sir.

Q. Now, did Dr. Hudson do anything with you by way of demonstrating a process for paper? A. Yes, sir.

Q. He had personally demonstrated on the ladder, hadn't he? A. Yes, sir.

Q. Was he given an opportunity to personally demonstrate on the original ransom notes? A. I never saw the notes.

Q. You never saw them yourself? A. No, sir.

Q. You never saw the ransom notes? A. No, sir.

Q. And you are in the Identification Bureau of the New Jersey State Police? A. That's right; yes, sir.

Q. Do you know whether Dr. Hudson, the man who had demonstrated on this ladder, was given an opportunity to demonstrate on the original ransom notes, if you know? A. No, sir; I do not know.

Q. Who would know that, Captain Snook? A. I don't know.

Q. Well, will you say that Hudson was or was not given an opportunity to demonstrate his theory, his plan on the original ransom notes?

Mr. Wilentz: Just a minute, now. He has answered it many times, your Honor please.

The Court: Yes; he said he does not know.

Q. Did you use the silver nitrate method from the time Hudson instructed you in it on until the present time? A. I have; yes, sir.

Q. And as a result of that have you brought finger prints, latent finger prints, out of wood? A. No, sir.

Q. You have never done it successfully? A. Not on a crime; in the laboratory, yes.

Q. Not in connection with a crime? A. No, sir.

Q. May I refresh your memory, Sergeant? Do you recall a case in which the handle of a pick axe was found in a murder case and that by using the silver nitrate method you were able to run down the perpetrator of the crime?

Mr. Wilentz: Just a minute. I object to counsel attempting to impeach his own witness.

Mr. Fisher: I am simply refreshing his memory.

The Court: Yes, I think I will exclude that.

Mr. Fisher: I have no desire, sir, to impeach him. I am simply trying to refresh his memory on a point that he seems to be a little hazy on, and I feel that that is perfectly proper direct examination, sir.

The Court: Well, you may put that question and have it answered.

Q. Do you recall a case, a murder case in which the handle of a pick axe was found near the scene of the murder and by the use of the silver nitrate process you brought out the finger print which led to the capture of the perpetrator of the crime? A. That is not a fact.

Q. Do you remember the Orre (?) case?

Mr. Wilentz: Now, you see, your Honor, that is an effort to impeach.

The Court: Yes, you are—

Mr. Fisher: May I ask this— Pardon me, sir. Was your Honor finished?

The Court: Yes. I finished by excluding the question.

Q. Now, may I ask, do you remember the Orre case? A. Yes, I do.

Q. And in that case did you discover finger prints by the use of the silver nitrate process? A. On paper.

Q. On paper, but by the use of the process which Dr. Hudson taught you? A. On paper; yes, sir.

Q. So that to that extent you did use his system.

Mr. Wilentz: Now, that I object to. That is argument.

The Court: Well, yes; you are arguing with your witness and you are leading him.

Q. Now, Mr. Kubler, do you know anything about the examination of the Lindbergh nursery on the night of the kidnaping in relation to the attempts to find finger prints? A. I do not recall.

Q. Do you know whether or not if I walk up now to the table of the Attorney General and put my hand like that on it and leave it for a second that will leave a definite finger print in the absence of anybody disturbing it? A. Not necessarily. No, sir.

Q. Not necessarily. So that sometimes a man may carry wood around and leave no finger print, other times leave one with his bare hand? A. That is possible.

Q. Is that your ordinary experience, that one man leaves a print and one doesn't? A. The same man

might not leave one one time, the next time he would.

Q. So that a man could take the wood in that ladder and fool with it for days and his print wouldn't appear on it? A. Yes, sir.

Q. So that the science of finger printing in your experience is very unexact and does not amount to very much?

Mr. Wilentz: I object to that as calling for a conclusion.

The Court: Yes, I will exclude that.

Cross-Examination by Mr. Wilentz:

Q. Before March 10th you had nothing to do with the Lindbergh case as far as finger printing or anything is concerned? A. I did not.

Q. You are a trooper and subject to orders of a higher command, are you not? A. I am; yes, sir.

Q. And you go where you are assigned? A. That is right.

Q. And until the 10th day of March, 1932, you had not been assigned to the Lindbergh case? A. I had not.

Q. You are a member of the State Police Force that covers the entire State, isn't that so? A. Yes, sir.

Q. Now, after March 10th, you have told us substantially what you have done. Do you know whether or not— no, I withdraw that. Don't you know that the Government man, Mr. Koehler, washed this ladder a few weeks before this trial in order to have it ready for court? A. I believe he did; yes, sir.

Q. Of course, that is hearsay? A. That is hearsay.

Q. You don't know of your own knowledge? A. I do not.

Mr. Wilentz: All right; that is all.

Re-Direct Examination by Mr. Fisher:

Q. Just— I want to show you one of the last exhibits, whatever it is—

The Reporter: D-60.

Q. I show you markings down here, and ask you what they are. Are they pencil markings? A. Yes, sir; they are.

Q. Were they on the ladder at the time the picture was taken, or have they been put on the picture after it was taken? A. They were put on before the picture was taken.

Q. It was on the ladder when the picture was taken? A. Yes, sir.

Q. Now, if a pencil mark, a little pencil mark shows, is it your opinion that a nail hole would show? A. Yes, sir.

Q. You think that a nail hole in that side, in either side of the third section of the ladder, would clearly show in your pictures if it was there when the picture was taken? A. It would; yes, sir.

Q. Now, the markings on the back of these prints, are they the identification of the prints, if you know, when they were taken, is that it? A. I don't know.

Q. You don't know what they are at all? A. (Shakes head.)

Mr. Fisher: That is all, sir.

Re-Cross Examination by Mr. Wilentz:

Q. If there were no fingermarks indicated at or near the nail holes, you wouldn't take any picture of nail holes, would you? A. I would not.

Q. Nail holes are not fingerprints, are they? A. Absolutely not.

Q. And they are not fingermarks? A. No, sir.

Q. You can't identify anybody by nail holes, can you? A. No, sir.

Q. But if there was a mark over the nail, fingermark, or a fingerprint, I take it you would then take a print of that if it included the nail holes?

Mr. Fisher: I object to this. I had thought all the time that the Attorney General was trying very hard to identify people by nail holes.

The Court: Oh, no. The Attorney General is cross-examining now.

Mr. Fisher: I am sorry.

The Court. I think this is quite right for him. Proceed.

By Mr. Wilentz:

Q. Now, regardless of nail holes, fingerprints, finger marks, or anything else, if a man wore gloves when he handled that ladder, nail holes or no nail holes, acid or no acid, water or no water, they wouldn't show, would they? A. Absolutely not.

Mr. Wilentz: That is all.

Mr. Fisher: That is all, Sergeant.

(Witness excused.)

Frank A. Kelly—Recalled, Direct

Mr. Fisher: Kelly.

FRANK A. KELLY, recalled as a witness in behalf of the defendant:

Direct Examination by Mr. Fisher:

Q. You are a member of the New Jersey State Police? A. I am.

Q. And what rank? A. Pardon?

Q. What rank do you hold, if any rank? A. Trooper, sir.

Q. Trooper. And in 1932, what department were you in? A. Bureau of Identification, assigned to Troop B.

Q. On the 1st of March, was that your assignment? A. Yes, sir.

Q. And what hour on the 1st of March were you called in the Lindbergh house?

Mr. Wilentz: Just a minute. This trooper has been on the stand, if your Honor please, at least three times. The same question that is being asked now I asked, Mr. Reilly asked, other counsel have asked. I have no objection to any testimony they want from Trooper Kelly, but certainly they should not go over the same field on March the 1st, March the 2nd, March the 3rd. We have gone over it with this witness time and again, both on direct and on cross; the man that went up there and found the note, the man that fingerprinted it or attempted to, the ladder and everything else have been gone into. I have no objection, of course, to this witness testifying to anything counsel wants. I merely make the observation, if your honor please, so we won't take up time that is not necessary.

Mr. Fisher: I think that I have tried very hard to take no unnecessary time, sir.

The Court: Well, Mr. Fisher, of course, you remember and we all remember that this trooper was exhaustively, as I thought, examined by both counsel; that is, counsel for the State and counsel for the defendant. Now, it would seem that such examination as you are now undertaking ought to be directed to certain specific things.

Mr. Fisher. I find it very hard to do that, your honor.

The Court: Yes.

Mr. Fisher: I have information since the witness was last on the stand which makes it necessary to conduct this examination and lead to my own points, sir.

The Court: Very well; but get to the precise point.

Mr. Fisher: I will get to it as quickly as I possibly can.

The Court: Yes.

By Mr. Fisher:

Q. Were you up there March 1st, the evening? A. No, sir.

Q. Were you there in the early morning of March 2nd? A. Yes, sir.

Q. At what time did you get there? A. I ar-

rived at the Lindbergh home at five minutes after twelve in the morning of March 2nd.

Q. And for what purpose did you go? A. Identification.

Q. And in what particular branch of identification? A. Fingerprints and photographs.

Q. Did you make any photographs? A. That day?

Q. Right then and there, that evening? A. During the course of that day; yes, sir.

Q. Did you make a search for fingerprints? A. I did.

Mr. Fisher: May I have a picture of the nursery room, please, Captain Snook.

Q. And in the course of that search for fingerprints did you process the woodwork of the window, nursery window?

Mr. Wilentz: Just a minute. Now, that's what I object to. We have gone all through that on many occasions.

The Court: I think we have.

Mr. Wilentz: Every one of those questions has been answered; no dispute about it.

Mr. Fisher: I feel that I have a perfect right, your Honor, to call this witness as my own and question him in my own way, as long as I don't transgress the rules of examination, and I don't think that I am. I can only get him to the point I want to get to by an orderly process of leading up to it, sir; and I am trying very desperately to do that. I promise that I wont' take two days with this witness.

The Court: You may call his attention to the fact that he testified before that he examined the window sill, if he did; and now you want to ask him whether he photographed it.

Mr. Fisher: I want to ask him some things that he did about it, some things that were not known before.

The Court: Well, proceed.

By Mr. Fisher:

Q. Did you process the window, the nursery window, in the Lindbergh home? A. Yes, sir.

Q. The side walls, the sash, the glass? A. Yes, sir.

Q. All parts of it? A. Yes, sir.

Q. I show you now a picture marked Exhibit S-12 and ask you whether that is the window you refer to, in answer to my question? A. Yes, sir.

Q. Will you describe for me, please, what type of window it is here, the sill and the window seat. A. There is a heat register in here.

Q. Yes. A. On the sill; and then there is a slight piece of wood that comes out from there.

Q. Do you know how far that extends out, Trooper? A. Oh, possibly three or four inches.

Q. And what about on the outside of the sill, from the window out? Is there any coping or extension on that side? A. I believe there is brick on the outside.

Q. Brick? And to what extent? How many inches does it extend over the side of the house? A. I don't recall.

Q. Three or four inches? A. I wouldn't say.

Q. Now, did you process the suitcase that shows

in the picture under the window, traveling bag? A. The jury has the picture.

Mr. Fisher: May I see that just a second.

Q. This bag (indicating)? A. Yes, that was processed.

Q. You processed that, too. And all other parts of the room? A. Yes, sir.

Q. Now, let me ask you, Trooper, was there any object in the window shown in the picture which the jury now has when you arrived there that night? A. Yes.

Q. What was there? A. A beer stein.

Q. A big stein? A. A beer, b-e-e-r; a beer stein.

Q. Well, a good sized stein? A. I would say it was a stein about that high (indicating).

Q. About so high. And that was in the window that you were processing? A. No, it was not in the window; it was on the window sill, on the left hand side, facing the window.

Q. Will you indicate on here, if you can, where that stein stood in the window? A. You can't see it from there, Mr. Fisher. There is another photograph, I think.

Q. Is there another one here? Is there another photograph of the window? That's the same one. A. It is back in this corner here.

Q. Back in this corner. So that, indicating the left hand corner of the window— A. Yes, sir.

Q. As you looked toward it. So that you now say that the window through which the kidnaper is alleged to have come on March 1st— in there there was a big beer stein? A. Not big beer stein.

Q. Well, a beer stein. A. That's right.

Q. And it was still there when you got there? A. Yes, sir.

Q. Apparently hadn't been disturbed by anybody

using that window, one way or the other? A. I couldn't say.

Q. Now, was there anything else on the window sill? A. Yes, sir.

Q. What was on the other side of the window sill? A. What side are you referring to, sir?

Q. Well, opposite the beer stein, whichever that would be. A. No, sir.

Q. Was there anything anywhere else in the window sill? A. Yes, sir.

Q. What else was on the window sill? A. The ransom note.

Q. What else? A. That is all I recall, sir.

Q. A beer stein and a ransom note? A. Yes, sir.

Q. What about the weather that night, Trooper, as to wind? Was it a windy night? A. As I recall it, coming from Morristown, it was cold and windy.

Q. Cold and windy? A. Yes.

Q. How was the ransom note fastened down? A. It wasn't fastened down, it was just laid on the window sill.

Q. In an envelope? A. Yes, sir.

Q. So that there on the window sill, unfastened in any manner, shape or form, was the ransom note? A. Yes, sir.

Q. In the center of the window? A. No, sir, on the side.

Q. The side to the beer stein or the other side? A. Side to the beer stein.

Q. Side to the beer stein. A. Yes, sir.

Q. But in no way fastened down? A. No, sir.

Q. Now, did you find any fingerprint of any kind on that window? A. I found finger markings on the window.

Q. Finger markings? A. Yes, sir.

Q. Unable to develop, is that correct? A. Mr. Fisher, what do you mean by "unable to develop"?

Q. I mean your identification system, is it the five

points in the identification— I will withdraw the question and ask you this: Was it what Kubler, the last witness, calls a fingerprint or a finger mark? A. It was a finger mark, Mr. Fisher.

Q. One that couldn't be identified? A. One that showed no ridge formation at all, it seemed to be a foreign object other than a hand mark.

Q. Will you describe for me, please, just what you mean by a finger marking so we can get it before the jury, the difference between a print and a mark? A. If it happened—

Mr. Wilentz: Of course, we have gone all through this, if your Honor please.

The Court: I think we did.

Mr. Wilentz: Every bit of it.

The Court: I think we did, Mr. Fisher.

Mr. Wilentz: Time and time again, both on direct and cross, and then again on direct.

Mr. Fisher: I assume, your Honor, where a man is on trial for his life, he is entitled to every bit of evidence that is proper to go to the jury before him. Now, Mr. Wilentz examined our witness two full days.

The Court: That is just the point, Mr. Fisher, this evidence is already before this jury.

Mr. Fisher: I don't remember, sir, this question of distinguishing between a marking and a print having been in this case anywhere before. I heard the terms any number of

times, but a description of them, I don't think it has been in, sir.

The Court: Well, now, perhaps we will save time by having you put this precise question and have it answered and then we will be through with it.

Mr. Fisher: Very good, sir.

By Mr. Fisher:

Q. Will you please describe the difference between what you term a marking and what you term a print? A. There are markings, Mr. Fisher, that could be left from a man wearing gloves that would indicate no ridge formation. There are other markings where a hand comes in contact with the surface and that hand is moved. That would leave a mark and would not leave a print that is of any value for identification. Then there are markings, there are finger prints that are left where a hand has come in contact and leaves a clear and distinct ridge formation and that print is of value.

Q. And that print usually is put on any surface by a hand staying in contact with the substance for some little time, is that correct? A. That is correct.

Q. As, for instance, the time you put your hand on a window to pull it down? A. Yes, sir— Pardon?

Mr. Fisher: Read the question and answer, please.

(The last question and answer were read, as follows: "As, for instance, the time you put your hand on a window to pull it down? Answer: Yes, sir.")

The Witness: If the hand didn't move. Yes, sir.

By Mr. Fisher:

Q. Yes, that is correct. Or the time you would have the hand on a window, putting the window up?

Mr. Wilentz: We have gone all through that, if your Honor please, time and time again.

The Court: Yes. I exclude the question.

Mr. Fisher: Well, we will try to find something we haven't gone through.

By Mr. Fisher:

Q. Did you have any conversation with Dr. Hudson about photographs being taken of the kidnap ladder? A. I don't recall that, sir.

Q. Did you at any time tell Dr. Hudson that over 1,200 prints of this ladder were taken, inch by inch, photographs? A. No, sir; I did not. I didn't even have that information myself. I would be in no position to know that.

Q. Did you ever tell Dr. Hudson that over five hundred prints were taken from the ladder as a result of his process? A. I have already answered that, Mr. Fisher.

Q. Well, now you think we have been over it twice, do you? May I have an answer to that question?

The Court: Yes. Answer it.

A. I don't know, sir.

Q. Well, will you say that that is not true?

Mr. Wilentz: Oh, now, if your Honor please, that is quarreling with the witness.

The Court: He doesn't know. Now why should we interrogate him and let him speculate?

Q. Now, Sergeant, or Trooper, did you and Kubler and Dr. Hudson make accurate inch by inch measurements of the kidnap ladder and reduce it to a diagram? A. I recall Dr. Hudson measuring the ladder.

Q. Didn't you hold one end of it while he was doing the measuring? A. I don't recall that.

Q. Well, you were there when he was making it? A. He measured the ladder.

Q. So that Dr. Hudson had that ladder in his vision sufficiently long to make a complete and detailed measurement of the ladder. Is that correct? A. Yes. He measured the whole ladder.

Q. Now, you weren't able to find any prints on the ladder when you first processed it, were you?

Mr. Wilentz: All been gone over, your Honor please. I object to it.

Q. How many times—

Mr. Wilentz: Unnecessarily wasteful.

The Court: I exclude it.

Q. How many times did you process the ladder from the first— second day of March until the 12th day of March with your old powder method? A. I believe twice.

Q. Went over it thoroughly twice? A. Absolutely.

Q. When did you go over it the second time? A. The same day.

Q. March the 2nd? A. I believe so, yes.

Q. Well, how did you happen to go over it the second time the same day? A. On my report to Colonel Schwarzkopf, verbal report, I told the Colonel I was unable to obtain any prints. And he instructed me to go over the ladder the second time.

Q. Where did you make your verbal report? A. I believe it was at the Lindbergh home.

Q. Where was the ladder while you were out making your report? A. The ladder wasn't out.

Q. Where was it when you were out making your report? A. It was under my custody.

Q. Did you carry it along when you went to make the report to the Colonel? A. No, sir; I locked it up.

Q. You locked it up? A. I did.

Q. You carried it and locked it up? A. Yes, sir.

Q. Anybody assist you in the work with the ladder? A. No, sir.

Q. All by yourself? A. Yes, sir.

Q. Didn't Kubler assist you? A. Sergeant Kubler didn't arrive there until around the 10th.

Q. Did he assist you with the ladder from there on? A. He worked on the ladder himself from there on.

Q. Anybody else work on the ladder besides you and Kubler? A. For finger prints, Mr. Fisher?

Q. Yes. A. No, sir.

Q. Anybody else handle the ladder except you and Kubler? A. Oh, the ladder was handled by quite a number of people.

Q. When? A. At the Crime Conference down in Trenton, the Governor's conference between the

time of the commission of the crime and the time the ladder was processed with silver nitrate.

Q. But you had had— When was that, do you know? A. I don't recall the date.

Q. You had had success with your powder method in taking prints from flat surfaces, hadn't you?

Mr. Wilentz: I object to that. Not material at all, gone over, should have been asked when the witness was on the stand on the other occasions, we have gone over this entire subject, your Honor please. I don't like to be objecting to this thing, either.

The Court: I exclude it.

Q. Now, about when was it the ladder was down in Trenton? A. Sir?

Q. To the Governor's Crime Conference, about when was that A. Oh, some time between the commission of the crime and the time that Dr. Hudson first came to Hopewell. I don't recall the date.

Q. Can you give me the date? A. No, sir, I cannot.

Q. Were you down there with the ladder? A. Absolutely.

Q. Where was the conference held? A. Down at the State House.

Q. But you cannot fix the date? A. No, sir.

Q. You think it was before Hudson saw the ladder? A. I know it was.

Q. Now, were you present when Kubler photographed this ladder? A. I was in the room, yes.

Q. Do you know how many pictures he took? A. No, sir.

Q. In order to properly identify any fingerprint on that ladder to know where that print was found on the ladder, wouldn't it be necessary to take at least

the entire flat surfaces of the ladder, the side rails? A. No, sir.

Q. Can you take one of these prints— I will hand you just one at random marked D-59, can you tell me where from the ladder that picture comes? A. No, I couldn't tell you that.

Q. You don't know? Take the entire ladder and you cannot tell me what two inches of the ladder that is? A. It wouldn't be necessary.

Q. That is your opinion. I differ greatly with you. I ask you now to answer the question.

Mr. Wilentz: I move that counsel's observation about it with the witness be stricken.

The Court: Yes, it will be stricken.

Mr. Fisher: And I move that the witness's answer be stricken and he be instructed to answer the question.

The Court: Well, you create confusion by this irrelevant remark of yours, Mr. Fisher. If you would avoid doing that we would get along much more rapidly. Now then, what does this record show at this moment?

(Whereupon the reporter read from the record as follows: "Question: You don't know. Take the entire ladder and you cannot tell me what two inches of the ladder that is." "It wouldn't be necessary." "That is your opinion. I differ greatly with you. I ask you now to answer the question."

The Witness: No, I wouldn't know.

By Mr. Fisher:

Q. You wouldn't know.

Q. In order to properly have identified fingerprints from this ladder and the place they had been taken, would it have been necessary to photograph the entire side rail? A. No, sir.

Q. If that had been done, you could take the various prints and match them up and have a composite picture of the rail of the ladder, couldn't you? A. I don't understand you, Mr. Fisher.

Q. I mean, if you had started here and taken every inch of this ladder, two inches at a time, as these pictures indicate, you could have pasted them together, end to end, the pictures that had a composite picture, a complete picture of the entire rail of the ladder, couldn't you? A. I suppose I could.

Q. Yes, but it wasn't done, was it? A. I don't know.

Q. Well, you don't know whether it was or not, do you? A. No, sir.

Q. Now, do you remember discussing the construction of the ladder with Dr. Hudson? A. No, I don't recall that.

Q. Do you remember discussing one particular feature of this third section of this ladder with Dr. Hudson—and I refer to the side rail 16? A. I don't recall any discussion with Dr. Hudson about the ladder.

Q. Do you remember discussing with Dr. Hudson the significance of the fact that there appeared to be in the side rail of the ladder only one nail hole? A. No, sir; I do not.

Q. You don't remember that at all? A. No, sir.

Q. Discussing that it was peculiar and significant? A. No, sir.

Q. You don't remember that? A. No, sir.

Q. Do you say that you didn't have any such conversation with Dr. Hudson? A. Absolutely.

Q. You say there was no such conservation? A. Absolutely.

Q. Do you know Dr. Hudson's secretary, Miss McGill? A. Yes, sir.

Q. Have you ever talked with her? A. Yes, sir.

Q. A number of times, haven't you? A. I have talked to Miss McGill when I went over to see Dr. Hudson.

Mr. Fisher: May we take our recess? It is the time, sir.

The Court: Yes, five minutes' recess.

(At 11:32 A. M. a short recess was taken.)

(11:42 A. M.)

(After a short recess.)

(The jury was polled and all jurors answered present.)

(The witness resumed the stand.)

The Court.: Counsel may proceed.

By Mr. Fisher:

Q. Trooper, is it true that Dr. Hudson made a scale model of a ladder and sent it through you to Colonel Schwarzkopf? A. He gave me a model of the ladder that he said was a scale model, yes, sir.

Q. Now, did you make a search for such a ladder as the kidnap ladder throughout this part of the country? A. At one time during the investigation, yes; I visited several places.

Q. And did you find several such ladders owned

by colored people in the fruit belt of South Jersey? A. Never found anything that resembled the ladder.

Q. Nothing similar at all? A. No, sir.

Q. Down in the Gloucester County fruit section? A. No, sir.

Q. Now, did you take this ladder to Washington? A. I did.

Q. And did you get an opinion down there as to the age of the lumber, of the wood? A. I did not.

Q. No one ever gave you an opinion as to how long this wood had been cut? A. No, sir.

Q. You say that, Trooper, is a fact, that no one ever advised you how long the wood had been cut? A. Absolutely.

Q. Was that information ever sought from any of the experts to whom the ladder was taken? A. The ladder was brought down by me for an examination by members of the Bureau of Agriculture, Soil and several other bureaus down there and the report of that was submitted to the Colonel.

Q. To the Colonel? A. Yes, sir.

Q. And he would have that, is that right? A. I believe so, yes, sir.

Q. And do you know anything about the contents of the report? A. No, sir, I do not.

Q. Personally. But, such a report was submitted as a result of your visit with the ladder to Washington, to Colonel Schwarzkopf? A. I do not know whether the report was submitted or not. I was told that a report would be submitted.

Q. And among other things, were you seeking then to find out the age of the lumber? A. I do not know whether or not that was one of the things those men attempted to do or not.

Q. Now, will you tell me, please, just what was done when Dr. Hudson came into the Lindbergh house on either October 12th or 14th?

Mr. Wilentz: I object to that as having been answered by this witness on the other occasions when he was on the stand.

A. I have already testified to that.

Mr. Fisher: I heard nothing about going outdoors with the ladder in any other testimony except Sergeant Kubler.

The Court: I will exclude the question.

By Mr. Fisher:

Q. Did you go outdoors with Dr. Hudson and Sergeant Kubler? A. I did.

Q. And what did you do outdoors? A. Talked to Dr. Hudson out there.

Q. What did the doctor do? A. He talked to us.

Q. Did he do anything in relation to the ladder? A. The ladder was brought out after it was processed in the cellar outdoors and then returned.

Q. Who did the processing in the cellar? A. Dr. Hudson demonstrated the use of the silver nitrate.

Q. On the ladder itself? A. On one rail of one section of the ladder.

Q. Put on part of the kidnap ladder? A. Pardon?

Q. Part of the kidnap ladder?

Mr. Wilentz: I object to it. He has already answered on one rail. I think he said on one rail or part of one rail.

By Mr. Fisher:

Q. Was it demonstrated on the rail of the ladder which is now here before you?

Mr. Wilentz: I object to that. He has already said a rail of the ladder.

Mr. Fisher: I certainly can point to the exhibits and ask if that is what he refers to.

The Court: Your question is excluded.

Mr. Fisher: May I have an exception, your Honor?

The Court: Take your exception.

(Exception allowed, and the same is signed and sealed accordingly.)

(s. s.) THOMAS W. TRENCHARD,
Judge.

Q. Now, were the ransom notes shown to Dr. Hudson? A. I couldn't say.

Q. You didn't show them to him? A. No, sir.

Q. Did you ever see the ransom notes yourself? A. Yes, sir.

Q. Did you make an effort to take prints from the ransom notes? A. Yes, sir.

Q. But so far as you know, they were not shown to Dr. Hudson? A. Not by me, no, sir.

Q. Up until the time you met Dr. Hudson had you found any prints on the ransom notes, any of them? A. No, sir.

Q. After you talked to Dr. Hudson did you find any prints on the ransom notes? A. No, sir.

Q. Any smudges? A. No, sir.

Q. Any finger markings of any kind or description? A. No, sir.

Q. The ransom notes, even after March 12th or 14th, were totally barren of fingerprint markings? A. Yes, sir.

Q. Is that correct? A. Yes, sir.

Q. Did you process the envelopes too? A. Yes, sir.

Q. And they were also barren of any fingerprints? A. There were some markings.

Q. Some markings. Anything that was readable? A. No value.

Q. No value at all? A. No, sir.

Q. And you made your effort to take prints after the letter had been sent and received and opened and turned over to you: is that correct? A. Yes, sir.

Q. And still you couldn't find anything that resembled a fingerprint on the letter itself, the enclosure, the paper enclosure, the letter itself? A. Anything of any value, Mr. Fisher.

Q. Well, now, I understood you to say that on the letters you found nothing and on the envelopes you found something that had no value? A. That's correct.

Q. So that on the letter, when it reached you, in the process of your business, there was not a sign of a print of any kind on the enclosure in the envelope, on the letter itself?

Mr. Wilentz: He has already answered that ten times, if your Honor please.

Mr. Fisher: There is confusion, sir, on his very last answer.

Mr. Wilentz: I will make no objection.

Let him answer it again then.

A. No, sir.

Q. No prints. How much of a print do you need, to have any value? A. At least five points of identification.

Q. What are they, Sergeant?

Mr. Wilentz: It has been gone over. I think Mr. Reilly asked him the same question when he was examined before.

The Court: Do you object?

Mr. Wilentz: Yes, if your Honor please.

The Court: I sustain the objection.

Mr. Fisher: Exception, sir.

The Court: Take your exception.

(Exception allowed and same is signed and sealed accordingly.)

(s. s.) THOMAS W. TRENCHARD,
Judge.

Q. Now, Trooper Kelly, do you know that fingerprints can be retained on wood much longer than on paper? A. No, I don't know that.

Q. That isn't correct?

Mr. Wilentz: No, he says—

A. I wouldn't say it isn't correct. I say I don't know.

Q. I will ask you this: In your experience as a fingerprint man, do you find that fingerprints are retained on paper as long as they are on wood? A. I have never made that comparison. I wouldn't know, Mr. Fisher.

Q. Isn't it a fact that under the silver nitrate process, fingerprints from wood can be taken off at a considerable period of time after they have been placed

on an object? A. Yes, sir.

Q. How long would you say a print would remain so that it could be taken off and read on wood, on North Carolina pine? A. It depends, under the conditions, whether it is a laboratory test or whether it is a scene of a crime—

Q. Well, under the conditions such as were present when this ladder was brought to you? A. I wouldn't know that.

Q. You wouldn't have any idea how long a print would— A. No, sir.

Q. Well, don't you know that on wood, prints absorb into the wood and last very much longer than on paper? A. No, I wouldn't say that.

Q. Do you know that under the silver nitrate process a print originally found can be eradicated with sandpaper and then the print again developed? A. I have tried that in a laboratory test myself.

Q. Will it do it? A. In some conditions yes if it isn't sandpapered too heavily.

Q. So that a print becomes so firmly embedded in wood, that you can take the print, sandpaper off the impression and develop it again? A. In a laboratory test where a print is put on for that purpose, yes.

Q. That is right, but on wood? A. Yes, sir.

Q. And do you know how long you can take a print off paper, how long after it has been impressed? A. I don't know of any definite time, no, sir.

Q. Well, did you during the progress of this investigation, did you have any demonstration that indicated a length of time that a fingerprint could remain on paper and then be developed? A. Not that I recall.

Q. Did Dr. Hudson make any demonstration for you on a cancelled check of his, using the silver nitrate method? A. At Hopewell?

Q. Anywhere during your investigation. A. Not during the investigation at Hopewell, no, sir.

Q. At any time down to the present time has that been demonstrated to you. A. Oh, yes, I have experimented with Dr. Hudson.

Q. So that you are able to take a print off paper six months after it was put on there, is that correct? A. I have never done it in that length of time with Dr. Hudson, no, sir.

Q. How long would you say? A. Some of the checks that Dr. Hudson had, I believe, were two or three months old.

Q. Two or three months old. And yet you found no prints in any of the ransom notes? A. No, sir.

Q. Do you have any equipment with you here today? A. No, sir; I do not.

Q. None at all? A. No, sir.

Q. So that this board that we have marked you wouldn't be able to operate on today? A. I don't have any equipment; no, sir.

Q. Neither the powder nor the silver nitrate? A. No, sir.

Q. You remember that this board was marked when you were on the stand last time? A. I remember a board was marked.

Q. Were you instructed to bring your equipment back here when you were on the stand the last time? A. Yes. I came back with my equipment but you didn't call me.

Q. Oh, we called you, Trooper. Do you remember a little piece of paper was marked in evidence and was brought here and you took your powder and brush and put it on that edge of the bench and you brushed it back and forth? A. But you were supposed to recall me—

Mr. Wilentz: Just a minute. Counsel asked me to have Trooper Kelly here today and I brought him. Counsel didn't ask me to have him bring his equipment.

Mr. Fisher: I think that is correct. Yesterday he wasn't asked, but I was trying to find out whether he wasn't asked to bring it back for this board test.

By Mr. Fisher:

Q. You don't remember being asked to come back with your equipment at the time this board was marked in evidence? A. I believe Mr. Reilly said he would have me the next day I was on the stand and I came back with my equipment, but I wasn't called by Mr. Reilly.

Q. You are inactive just now because of illness, aren't you Trooper? To come back tomorrow would be a burden to you with this thing, wouldn't it? A. I can come back tomorrow.

Mr. Wilentz: I am going to object to that, if your Honor please.

Mr. Fisher: I am not going to ask him to.

Mr. Wilentz: All right, then, sir.

By Mr. Fisher:

Q. You are off duty, aren't you, because of illness now? A. Yes, sir.

Q. Yes, sir.

Mr. Fisher: I think that is all, sir.

Cross-Examination by Mr. Wilentz:

Q. Kelly, I just want to ask you one or two questions. I want you to take a look at the picture of this

window, S-22. Now, you see the window sill, don't you? A. Yes, sir.

Q. Then there is a ledge, isn't there? A. Yes, sir.

Q. It protrudes? A. Yes, sir.

Q. Out? A. Yes, sir.

Q. Towards the room? A. Yes, sir.

Q. Then there is a piece of board that goes over for a few inches?

Mr. Fisher: I submit that is leading, your Honor.

Mr. Wilentz: He is your witness. This is cross-examination.

Mr. Fisher: I don't care whether it is cross or not. It is exceedingly leading.

Mr. Wilentz: I will withdraw—

The Court: I thought Attorney Generals were permitted to lead.

Mr. Fisher: To a given extent, sir.

The Court: I don't know of any limitation.

Mr. Fisher: Very good.

Q. Does the woodwork protrude out from the window? A. On the outside?

Q. No, looking towards the room? A. Yes, sir, it does.

Q. Now you see where these—

Mr. Wilentz: If your Honor has no objection, I would like to come up here for this demonstration.

The Court: Why certainly not, Mr. Attorney General, follow right along.

Q. Now do you see those things (indicating)? Those are shown on that window, too, aren't they? A. They are, yes.

Q. Now then, that board, say along here, take that as the board so that the jury can see it. Then there is a part comes over like that (indicating), isn't that so? A. Yes, sir.

By Mr. Wilentz:

Q: Now, then is there a piece that comes over—then for the other wall, does it go over, and then the wall of the window sill like this sill (indicating)? A. (No answer.)

Q. Assuming that this string is along here, for the sake of helping the jury, then there is a piece of board that goes over that way, isn't there? A. Yes.

Q. To the right, we will say. A. Yes, sir.

Q. As we face it. A. Yes, sir.

Q. And then the wall of the window comes out again, doesn't it? A. Yes, sir.

Q. So that there is a piece right adjoining the window? A. Yes, sir.

Court Crier Hann: The jury can't hear the witness.

Mr. Wilentz: Mr. Fisher, will you get right in back of me?

Mr. Fisher: Yes. I will be glad to.

The Court: Come right in here.

Mr. Fisher: Yes; thank you very much.

Q. In other words, there is the window itself, then there is a little alcove, like that. A. Yes, sir.

Q. So that in front of this piece, this solid piece, in that window, you could put an object without it being in front of the window, couldn't you? A. Yes, sir.

Q. Now, is that where the stein was? A. Yes, sir.

Q. So that the stein wasn't in front of the window itself at all, was it? A. No, sir, it was not.

Q. It was not there on the window sill but along side of that solid foundation—

Mr. Peacock: The jury can't hear the witness's answer.

Mr. Wilentz: Can't hear?

Mr. Peacock: No, sir.

Mr. Wilentz: All right.

Q. Do you understand the physical surroundings that I have been trying to describe for you? A. Yes, sir.

Q. Or point out for you. A. Yes, sir.

Q. Adjoining this window, the nursery window, is there a recess? What I mean by a recess is, is there a part which in addition to the window has a wooden background? A. Yes, sir, there is.

Q. Was this stein that you talk about along in front of the window itself or in front of that wooden recess? A. In front of that wooden recess in the corner.

Q. So that if you came through that window, would the stein be in the way at all? A. No, sir, it would not.

Q. You would have to reach over to the side for it, wouldn't you? A. Yes, sir.

Q. Now, just one other question. If the man who brought that kidnap ladder to the Lindbergh home on the night of this crime, and if the man who went into that nursery of the Lindbergh home that night and took that Lindbergh child, wore gloves, would there be any fingerprints of his in evidence so that you would be able to distinguish them either on the ladder or any other place or point that he touches? A. Absolutely not.

Q. Now, regardless of any other time, the time that you were there is the only time I am talking to you about, you say that stein was in front of the wooden recess? A. Yes.

Mr. Wilentz: That is all.

Re-Direct Examination by Mr. Fisher:

Q. Now Mr. Kelly, let me show you a picture and ask you if that looks like the stein you saw there that day over in this corner (showing witness a newspaper clipping)? A. Yes, sir.

Q. And was that picture taken by you? A. I wouldn't say that picture was taken by me, no sir.

Mr. Wilentz: Talk up a little bit, will you please?

A. I wouldn't say that picture was taken by me.

Q. Will you say it wasn't? A. I won't say I did or didn't.

Q. You won't say yes and you won't say no, is that right? A. No, I don't know where this photograph came from or anything about it.

Q. Well, you wouldn't say you didn't take it? Does that look like the stein you saw? A. That is similar to the stein, yes, sir.

Q. Now, that stein, alcove or no alcove, it ex-

tended out to where it covers part of the window, does it?

Mr. Wilentz: Now just a minute. It does no such thing.

Mr. Fisher: Well, let the witness look at it and say.

Mr. Wilentz: Well, ask the witness, don't tell him.

Mr. Fisher: I thought I was doing it. I will have the stenographer read the question.

Mr. Wilentz: I withdraw the objection then, and let you ask the witness any way you want.

Q. Does that stein come out to a point where it extends beyond part of the window itself? A. In this photograph it is very indistinct and there seems to be shadows which might indicate that, but I would not say that it would.

Q. Trooper, will you say that that stein does not extend out over the wood part of the window itself?

Mr. Wilentz: Look at it, please.

By Mr. Fisher:

Q. Look at it carefully, indeed. A. I would say that it does not.

Mr. Wilentz: Let's mark it for identification.

Mr. Fisher: Let's offer it in evidence; let's do better than offer it for identification. I offer it, sir, and let the jury see it.

Mr. Wilentz: What is it, a newspaper picture?

Mr. Fisher: It is a picture he won't say whether he took or didn't.

Mr. Wilentz: If that is a picture taken on the night of March 1st I have no objection, no matter who took it, no matter where it appeared; but I would like to know who took it and when it was taken.

The Court: There does not seem as yet to be any proof of the accuracy of this picture, either in one fashion or another. Now, if you are able to prove that it is a correct picture of that window and its surroundings on the night of March 1st, if you want to prove it you had better get about it, Mr. Fisher.

Mr. Fisher: I thought the witness said that. I thought he followed the same system followed with the cemetery photographs, a true picture of the scene at the time.

Mr. Wilentz: If he says it is a true picture of the scene at the time, I will have no objection.

By Mr. Fisher:

Q. Is that a picture of the scene there as you were there? A. It looks like the objects and the window that was in that room, but I wouldn't say that it is.

Q. Well, it looks like it? A. Yes, it does.

Q. Looks to be a true scene there? A. It looks like it, yes, sir.

Mr. Fisher: I submit then the picture is properly offered then.

The Court: What do you say, Mr. Attorney General?

Mr. Wilentz: In the first place, if your Honor please, the thing is all marked up. They have arrows on it. The picture was evidently taken to indicate something else, as it indicated by the arrow.

Mr. Fisher: Cut out everything. I am willing to cut out everything but the picture.

Mr. Wilentz: Of course you cannot cut the arrow out, which goes right over the window.

Mr. Fisher: We had a picture here with two men which your Honor instructed the jury to disregard the two men.

Mr. Wilentz: No, that picture was excluded on Mr. Fisher's objection, the two men.

Mr. Fisher: Oh, it is in here. You had that yesterday, a picture with two men.

The Court: That picture went in without objection but with an explanation as to these two men; so that it is no precedent for this ruling. What I am trying to find out now is whether or not this or any witness will testify that this is a correct picture of conditions there as he saw them that night.

Mr. Wilentz: It is marked up, has words on it; it is intended apparently to show the note,

and I have no objection to getting the measurement of that recess, I will try to get it, in that window sill, to show just what the physical condition is. But this newspaper picture—a very small one, very indistinct, and is intended to show a different thing. The arrow points at a different thing.

Mr. Fisher: But the stein is there, no matter what the arrow points to.

Mr. Wilentz: Well, your witness has already described the position of it.

The Court: And he has, as I recall, refused to say that that is a correct representation. He says it looks like it but he does not seem to be willing to speak as to the accuracy of the picture. He may be examined further about it if it is considered important.

By Mr. Fisher:

Q. Will you say whether or not that truly depicts the window scene as you saw it on the night of March 1st, 1932. Now, you are the man that saw it. A. I wouldn't say that it truly does, no, sir.

Q. Where does it differ from what you saw? A. I wouldn't say that it did.

Q. You won't say Yes and you won't say No? A. No. I didn't take the photograph.

Q. And you won't say on this witness stand whether that is what you saw that night or whether it isn't? A. Not from that picture, no, sir.

Q. Well, describe for me, then, what you saw and see how close it comes to the picture. A. A scene similar to that, Mr. Fisher.

Q. But you won't say it is what you saw? A. No.

There are shadows and things on that photograph that won't indicate truly what I saw there that night.

Q. There would be shadows on the original of that photograph, wouldn't there? A. Pardon?

Q. Wouldn't there be shadows on the original? A. Perhaps. If you produce the original of that photograph I think I might be able to do a little better.

Q. You might be able to do a little better?

Mr. Fisher: Has your Honor ruled on my offer of this?

The Court: No. I haven't ruled definitely. I am not inquiring of the Attorney General if he objects.

Mr. Wilentz: Yes. We object to this picture.

The Court: You object?

Mr. Wilentz: Yes, if your Honor please.

The Court: I exclude it.

Mr. Fisher: We pray an exception.

The Court: Take your exception.

(Exception allowed, and the same is signed and sealed accordingly.)

(s. s.) THOMAS W. TRENCHARD,
Judge.

By Mr. Fisher:

Q. Did you take a picture of this window that night? A. Yes, sir.

Q. And where is your picture? A. It is there—you just showed me one.

Q. Did you take a picture showing the stein in the window? A. I don't recall that, Mr. Fisher.

Q. Then you don't know whether you took a picture as it is there or not, do you (showing newspaper picture to the witness)? A. I don't recall it, no, sir.

Q. This is the one you say you took (showing S-12 to the witness)? A. That's correct.

Q. And that is taken at an angle that doesn't show the entire window, isn't it? A. Yes, sir.

Q. It cuts off almost one entire light, doesn't it, one entire pane of glass? A. Yes, sir.

Q. So that it shows at the best only two-thirds of the window, doesn't it, about? A. I would say a little more than two-thirds.

Q. Well, slightly more than two-thirds? A. Yes, sir.

Q. Not three-quarters of the window, does it? A. Oh, yes, more than three-quarters of the window.

Q. That shows more than three-quarters of the window? A. I believe so.

Q. Well now, just take a look and think it over a minute and see whether you think that shows more than three-quarters of the glass surface of that window? A. Well, about three-quarters to two-thirds.

Q. About three-quarters to two-thirds? A. Yes, sir.

Q. And the part that is omitted is the part where the stein was standing, isn't it? A. Yes, sir.

Q. Yes. A. Similar side on the other side of the photograph.

Mr. Fisher: That is all.

Re-Cross Examination by Mr. Wilentz:

Q. When this picture was taken, Mr. Fisher's

client, Mr. Hauptmann, was not a defendant, was he? A. No, sir.

Q. No. This picture wasn't taken for this case of Mr. Hauptmann specifically, was it? A. No, sir, it was not.

Q. Now that picture, I take it, was taken from some part of the room, not only to show the window, but I take it to show the suitcase and the place where the note was? A. Yes.

Q. We are referring to picture S-12. In taking this picture, did you take it correctly? A. Yes, sir.

Q. Did you remove anything? A. No, sir, I did not.

Q. Did you try to hide anything? A. No, sir.

Q. So that so far as that portion of the window sill which is shown by this picture, S-12, is it a correct picture of the window sill as of that night? A. Absolutely it is.

Q. Was there any stein on that portion which is shown by that picture? A. No, sir.

Q. Not on that at all? A. No, sir.

Mr. Wilentz: I would like to show it to the jury.

Mr. Fisher: Yes. I would like to ask him a question first.

Mr. Wilentz: Would you rather ask him first?

Mr. Fisher: Yes. I should like to.

Re-Direct Examination by Mr. Fisher:

Q. Was the picture taken, Trooper, with the idea of not showing this corner of the window? A. Oh, no.

Q. But it doesn't show it. A. No, sir.

Re-Cross Examination by Mr. Wilentz:

Q. But whatever it shows it is exactly as it was that night. A. Yes, sir.

Q. Nothing was removed from the window sill. A. No, sir.

Re-Direct Examination by Mr. Fisher:

Q. So far as it goes it is a correct picture of the window? A. Yes, sir.

Q. As much of the window as it shows? A. Yes, sir.

Mr. Wilentz: That is all, sir.

Mr. Fisher: That is—Just a minute.

Mr. Wilentz: Pardon me. I thought you were through.

Mr. Fisher: I think I am.

Mr. Wilentz: All right.

Mr. Fisher: That is all, sir.

(Witness leaves stand.)

Mr. Reilly: Bruchmann.

OSCAR JOHN BRUCHMANN, sworn as a witness on behalf of the defense:

Direct Examination by Mr. Reilly:

Q. What is your business? A. Taxi driver.

Q. Where do you live? A. 1 Manhattan Avenue, New York City.

Q. Is that up in the Bronx? A. No, sir.

Q. Where is it, around 110th Street, West Side? A. Around 100th Street, 100th Street one block east of Columbus Avenue.

Q. Did you know Isidor Fisch? A. I did.

Q. When did you get acquainted with him? A. I worked for him, I have worked in a company backed by Isidor Fisch, around 1930.

Q. What kind of a company? A. Pie-baking company.

Q. I show you defense exhibit 39 and ask you whose picture that is. A. That is Isidor Fisch.

Q. Is that the man you worked for? A. That is right.

Q. In what pie-baking company? A. Knickerbocker Pie Baking Company.

Q. Where? A. 59 Downing Street, New York City.

Q. And when, what year? A. Around 1930.

Q. How long did you work for him? A. Well, almost a year.

Q. What were your duties there? A. Chauffeur-salesman.

Q. Did you drive Fisch around? A. No, sir.

Q. But you saw him around there? A. Oh, yes, I saw him around there.

Q. Now, after you left this pie-baking concern, when did you next see Fisch? A. I saw Fisch around May of 1933.

Q. Where? A. At 60th Street and Broadway.

Q. Manhattan, New York? A. Manhattan.

Q. And did he come up to you? A. He did.

Q. What were you doing there on the corner? A. I was hacking, standing by my hack.

Q. Were you hacking for some company? A. I was hacking for an independent company.

Q. By that you mean you were driving a taxicab? A. I was.

Q. What time of the day was it? A. It was around seven o'clock at night.

Q. And did Fisch talk to you? A. He did, he wanted to know how I—

Mr. Wilentz: Just a minute. I object to what Mr. Fisch said to this gentleman in May, 1933.

Mr. Reilly: I think it is competent. It is offered for the purpose of showing the sudden affluence of Fisch and his wealth and his display of certain gold-back bills that he had in May, 1933.

Mr. Wilentz: Now, if your Honor please, that I object to.

Mr. Reilly: Well, your objection forces me to tell the Court what I am offering this witness for.

Mr. Wilentz: I know, but I object—that is just why I object to this man taking from the mouth of a dead man and bringing into this court words which it is impossible to meet and which he knows it is impossible to meet, a conversation. It is not material. It is not competent, if your Honor please.

Mr. Reilly: I say it is material and it is competent to show—and we have charged here in the defense repeatedly—that this money was in the possession of Fisch and the box that he

gave to Hauptmann, Hauptmann has testified he left with him, and it contained money which afterwards people have demonstrated here contained notes that had been registered as part of the Lindbergh money.

Now it is unfortunate that Mr. Fisch died, but still it is part of our case, we contend, to show that Fisch was going around New York after the ransom money had been paid by Dr. Condon, exhibiting gold bills to different people and trying to exchange them with different people, and that he left part of them with Mr. Hauptmann.

Mr. Wilentz: There hasn't been one bit of proof of anything that counsel says about that up to today, and we have been here for some days listening to the defense.

Mr. Reilly: We have to introduce—

The Court: I would like to have the question read, so that I know precisely the bearing on this.

Mr. Wilentz: I recall, if it will help at all, that counsel asked him—he started to say what Fisch told him in May, 1933, when he met him. That I objected to.

Mr. Reilly: And I urged my reasons for asking him what he told him.

The Court: I think I will sustain the objection.

Mr. Reilly: May I have an exception?

The Court: Take your exception.

(Exception allowed, and the same is signed and sealed accordingly.)

(s. s.) THOMAS W. TRENCHARD,
Judge.

Q. Well, did Fisch exhibit anything to you at any time during that night in his conversation?

Mr. Wilentz: Just answer Yes or No, please.

A. Yes, he did.

Q. What did he exhibit?

Mr. Wilentz: That I object to, if your Honor please.

The Court: One moment.

Mr. Reilly: Now, I think if it follows that line and it is material to the defense, it is admissible.

Mr. Wilentz: Well, I would like to discuss this question with counsel and your Honor at side Bar, and then if counsel wants to argue it otherwise he can do so.

(Discussion between Court and counsel at side Bar, off the record.)

(Counsel conferred with the Court at the Bench out of the hearing of the jury from 12:15 to 12:28 p. m.)

The Court: The people will remain seated in the courtroom where they are.

The jury may now retire and come in at one forty-five.

(At 12:28 p. m. the jury retired.)

The Court: The prisoner may now retire.

(The defendant retired in the custody of the Sheriff.)

The Court: We will now take a recess until 1:45.

(At 12:30 p. m. a recess was taken until 1:45 o'clock p. m.)

AFTER RECESS.

(1:46 P. M.)

(The jury was polled and all jurors answered present.)

The Court: You may proceed, Mr. Reilly.

Mr. Reilly: May I ask your Honor's indulgence for a moment. Counsel is coming now. Bruchmann.

OSCAR JOHN BRUCHMANN, resumed the witness stand:

Direct Examination (continued) by Mr. Reilly:

Mr. Reilly: Your Honor, when we adjourned we had before you an objection, I think, to a question.

The Court: Yes. Let the question be repeated.

(The reporter read the question as follows:

"Q. Well, did Fisch exhibit anything to you at any time during that night in his conversation?

"Mr. Wilentz: Just answer yes or no, please.

"A. Yes, he did.
"Q. What did he exhibit?")

The Court: Does the Attorney General object to that question?

Mr. Wilentz: Yes, if your Honor please; that is the question which we argued.

The Court: Well, he may answer that question shortly subject to such objections as the Attorney General has to make and such motions as he is prepared to make.
Let him answer the question shortly.

A. He—after I took him down to Sixth Avenue—

The Court: Never mind that. What did he exhibit to you?

Mr. Wilentz: Just answer the question.

The Witness: He pulled a roll of bills out of his pocket and gave me a five-dollar bill.

The Court: Yes.

The Witness: I don't know whether they

were gold notes or not. That I don't know. I didn't swear that I saw gold notes.

The Court: Well, I think that is immaterial and if the Attorney General moves to strike it out, I am afraid I shall have to grant the motion.

Mr. Wilentz: I move that it be stricken, if your Honor please, as not being material to the cause.

The Court: Do you desire to be heard any further, Mr. Reilly?

Mr. Reilly: Well, for the purpose of the record I should like to have it appear that we are offering this witness and other witnesses, to endeavor to show that after April, 1932, down to the time Fisch sailed for Europe, he exhibited to many people large sums of money and that is as far as I will go with this witness.

Mr. Wilentz: If your Honor please, I object to that statement in the record. If your Honor please, it hasn't at all been proven by any single witness, and I object to counsel putting it in the record.

The Court: Well, I—

Mr. Reilly: I think we have a right to have it in the record.

The Court: I think counsel has a right to have it stated in the record. I will grant the Attorney General's motion to strike it out.

Mr. Reilly: Strike out?

The Court: Strike out the answer of the witness.

Mr. Reilly: The answer but not the reasons.

By Mr. Reilly:

Q. Now the fare from the point you took Fisch at the point he entered your cab to where he alighted from the cab was how much?

Mr. Wilentz: I object to it as not being material to this cause, whether he took a trip with Fisch or whether he didn't, or what the fare was.

Mr. Reilly: The purpose of this is to show that Fisch was practically throwing his money away.

Mr. Wilentz: Now I object to counsel testifying.

Mr. Reilly: I am not testifying.

Mr. Wilentz: That's just the point, if your Honor please.

The Court: He has stated the purpose, and I think the purpose is inadequate to support the question; and if the Attorney General moves to exclude the question, I will exclude it.

Mr. Wilentz: I do, sir.

Mr. Reilly: And I except.

The Court: Take your exception.

(Exception allowed, and the same is signed and sealed accordingly.)

(s. s.) THOMAS W. TRENCHARD,
Judge.

Q. You have testified he gave you a five-dollar bill from a roll of bills. Is that correct? A. That is correct.

Q. Was the fare five dollars? A. No, it wasn't.

Mr. Reilly: Now, under your Honor's ruling, to which I have taken exception, I shall not pursue these questions any further, because I belive that I am protected by my exception. You may take the witness.

Mr. Wilentz: No questions.

(Witness excused.)

Mr. Reilly: Mr. Miller.

GUSTAVE MILLER, sworn as a witness in behalf of the defendant:

Direct Examination by Mr. Reilly:

Q. Where do you live? A. In Manhattan.

Q. Whereabouts? A. I will give you the shop number.

Q. All right; where is that? A. 416 West 127th.

Q. And is that in the Bronx? A. Sir?

Q. Is that in the Bronx? A. No, that is Manhattan.

Q. And what is your business? A. Plumbing and steam.

Q. You are a licensed plumber under the regulations? A. Master licensed plumber, yes.

Q. You have your permit from the City of New York? A. Yes, sir.

Q. How long have you been a licensed plumber? A. About seven and a half or eight years.

Q. Now, in 1933 and '34 did you have a shop in the Bronx? A. Right.

Q. Where? A. 3585 Boston Post Road, corner 222nd Street.

Q. Now, in relation to the house that Mr. Hauptmann lived in and the house owned by Mrs. Rauch— A. Right.

Q. —how near was your shop to Mrs. Rauch's house? A. To Mrs. Rauch's house, about a block; that is 200—about 230 or 240 feet. In fact, the road where Mrs. Rauch's house is built, that is the old Post Road, not Brunner Avenue.

Q. Now, did you do some work for Mrs. Rauch before August, 1934? A. Yes, since 1931.

Q. Has she lived in the house since 1931? A. Right.

Q. Now, were you called to her house in August, 1934? A. She called me in.

Q. When? A. When I went past there.

Q. What date? A. Well, that is hard to say, the date,—

Q. Have you got any record? A. —but my city records can clear me.

Q. All right. Refer to your city records to refresh your recollection. A. It is early, early in August.

The Court: Whose house was it you called at?—

Mr. Reilly: Mr. Witness—

The Court: —Mr. Witness?

The Witness: Sir?

The Court: Whose house did you call at?

The Witness: Mrs. Rauch's.

The Court: Mrs. Rauch?

The Witness: Rauch.

The Court: Rauch, all right.

Mr. Wilentz: August, what date?

Mr. Reilly: August, 1934.

The Witness: R-a-u-c-h.

By Mr. Reilly:

Q. Was it August, 1934? A. Right, early part.
Q. Now, Mrs. Rauch's house that you—

Mr. Fisher: May we borrow a chair, your Honor?

The Court: Yes, surely. Mr. Reilly, counsel seem to be short of chairs. Of course, that ought not to be, but it is; and of course counsel are entitled to be seated, I suppose, so we will have to wait until they get a seat.

Mr. Fisher: Now we are all right. Mr. Reilly's man was short a chair.

The Court: I see. Go ahead.

By Mr. Reilly:

Q. Now, will you just put those records away, please, for a minute. A. (Witness puts records in an envelope.)

Q. The house we are talking about, Mrs. Rauch, she was the landlady, is that correct? A. Right.

Q. Is that the house that Hauptmann lived in? A. Right.

Q. Did he live there in August, 1934? A. Yes.

Q. When you went to the house in August, 1934, where did you go and what did you do? A. Well, Mrs. Rauch called me in and says, "It is a leak upstairs," if I don't mind going up.

Q. Did you go upstairs? A. Certainly.

Q. Whose apartment? A. In Hauptmann's.

Q. What room did you go into? A. Well, as I come up the head of the stairs, a sort of hall there, and they said—I had to knock at the door. There is no bell for upstairs. And as I come in there Mr. Hauptmann and Mrs. Hauptmann were there.

Q. Was your attention attracted or directed to any particular portion of any particular room? A. Well, they went into the kitchen. They said they got a leak.

Q. When you got into the kitchen, where did you go? A. Well, they pointed into the clothes—closet, told me the rain was coming through the roof.

Q. Where was the closet that you looked at in the kitchen? What part of the kitchen? A. The left—right opposite, right opposite the tub. It is a small closet in the corner.

Q. I show you the State's Exhibit 264.

Mr. Reilly: I don't think that's in evidence.

Mr. Wilentz: Yes, it is; S-264.

Mr. Reilly: He didn't put that rubber stamp on it.

Mr. Wilentz: No.

Mr. Reilly: All right.

Q. I show you State's Exhibit 264 and ask you whether you can point out on that photograph the closet? A. Right here (indicating).

Q. That your attention was directed to. Now you are pointing to— A. There is two valves in there that you shut the water and turn it off, hot and cold; two valves about a foot high.

Q. Is this the closet (indicating)? A. Yes. The shelves are on the—the shelves are on the right hand side.

Mr. Reilly: Identifying the broom closet.

Q. Now, what did you find? What was the condition in that closet? A. Well, the water was coming down from the stack. The stack is over the waste line, the stack is the part that is over the waste, that runs above waste. It goes through the roof. That's a stack line.

Q. Now is the stack line a pipe? A. A four-inch stack, cast iron.

Q. Where does it run from in that house? A. From? All the way up.

Q. Where does it start? A. From the sewer line.

Q. It starts— A. From the cellar.

Q. In the cellar? A. Right.

Q. And runs through the different parts of the building? A. All branches empty into that, all waste.

Q. Is this pipe a straight pipe? A. Right. Sometimes they put a four—a one A pin.

Q. No, I am talking about this pipe. A. In the closet.

Q. You see we are not all plumbers. I would like to know if it was a straight pipe or not. A. Right.

Q. And did it run from the cellar up through the Hauptmann apartment and through this broom closet, clothes closet as you call it, out through the roof? A. Certainly.

Q. Well now, you say there was water? A. Yes.

Q. Was it coming down on the inside of the pipe or the outside? A. Outside.

Q. Was there any water in the closet? A. Yes.

Q. Where was the water in the closet? A. Well, I see there was plenty of it around the floor and I didn't look much, because I knew what it was when I looked up.

Q. You didn't make any examination of the closet, did you? A. Not of the closet. I went upstairs, shot up in the attic.

Q. I am talking about the closet. A. Yes.

Q. Now, am I correct in saying, and I don't want to lead you, that you looked in and saw a pipe? A. Yes, go ahead.

Q. A four-inch pipe? A. Yes.

Q. Now where in the closet was the four-inch pipe? A. I see a couple of shelves. I believe it was two shelves, maybe another one, I don't know, but as I came in on the lefthand side of the pipe, a four-inch vent.

Q. In the back of the closet or front of the closet? A. Towards the rear.

Q. And that's where the water was coming down? A. Right.

Q. Into this closet? A. Right.

Q. And you say you went up into the attic? A. Right.

Q. How did you get up in the attic? A. Well,

there is one, two, there is a couple of shelves there like.

Q. Where? A. I got a chair.

Q. Where? A. In the hall.

Q. Where is the entrance to the attic in the Hauptmann apartment? A. The entrance to the attic there is a door there on the—you look from the bathroom right straight in is the center room.

Q. Yes. A. Just on the left of that there is a small place, well just about 18 inches, something like that, 15 or 18, I don't just know to the dot.

Q. What kind of a place is that? A. Well, it was a couple of shelves there and that leads you up to the attic.

Q. Were the shelves in the closet or outside of the closet or where were they? A. They were inside.

Q. Now how was the attic shut off from the Hauptmann apartment? A. Well, there is a door on it.

Q. How did you get up to the door? A. Well, I got a chair, stood on one and shoved it up.

Q. Shoved the cover up? A. The cover up, certainly.

Q. And you finally got up into the attic; is that right? A. Right.

Q. Did you have anything with you so that you could examine the attic? A. Yes. I had a candle with me. I always carry one.

Q. Now, did you examine the attic to see the condition of the pipes? A. Yes, I see it coming down.

Q. Saw what? A. Water.

Q. And was the water coming through the roof down the pipes? A. Right. They got what they call a floor flange—a roof flange.

Q. A what? A. A roof flange.

Q. That I suppose is an opening through the roof? A. No, it is a flange. You put it in under

the shingle and then it is—I can sketch it off in two minutes.

Q. No, don't sketch it off. A. Yeah. It is about half-round and then there is a tip onto it, and there is lead around there.

Q. That is to make it waterproof? A. No; you top the lead over, the lead makes it waterproof after you top it.

Q. That is what I say. That makes it waterproof? A. Right.

Q. Now, had the waterproof around the flange come loose? A. The lead came loose.

Q. And the water was coming in? A. Right.

Q. Was it raining that day? A. Yes.

Q. Very heavy rain? A. Yes, we had stopped and on.

Q. Had it rained the day before? A. That I don't—don't know. That I couldn't tell you.

Mr. Reilly: May I see that attic picture.

Q. You are sure it was raining that day? A. Right; because I had my raincoat on.

Q. Now, when you got up in the attic, will you describe the condition of the attic to us as to flooring. A. Well, while I was up in the attic I looked on the side, the southeast side of the window.

Q. Was there a window in the attic? A. I seen that the water was coming down the stack and I turned around more, which I always carry a candle or a match with me, because I never know where I am going.

Q. Did you light the candle? A. Certainly.

Q. Now, how did you walk in the attic? What did you walk on? A. Well, it was sort of a—what they call a—it is a walk, a board walk, sort of.

Q. Board walk? A. Right.

Q. In the attic? A. Right.

Q. And about how wide would you say the boardwalk was? A. Well, that I couldn't really tell you, it is about, say five or six or something like that foot wide.

Q. Did the board walk extend all through the attic? A. Well, that I didn't know. I walked about half way—that is, I walked about one-quarter one way and one-quarter the other way.

Q. Then you came down from the attic, did you? A. Yes— No, I noticed a window leaking on the side.

Q. Well, you finally came down from the attic. A. Right.

Q. Is that right. And did you leave something with Mrs. Rauch, so it could be repaired? A. No. I went away and came back and brought it, plastic slate.

Q. When did you come back? A. The same day.

Q. How long after your first visit? A. Well, that was in the afternoon.

Q. Did you leave any stuff then? A. After I left Mr. Hauptmann—

Q. You left, I didn't ask you whether you left Mr. Hauptmann or not. Did you leave any stuff there to remedy the leak? A. Well, later on I did, yes.

Q. In the afternoon? A. Yes, toward evening.

Q. I am showing you State's Exhibit S-216, the picture of the Rauch attic. Is that the window there that you refer to? A. That is the—the rain was coming in there, too.

Q. Now, did you walk over on these boards to this window? A. Well, I will tell you. There is enough light—I walked on boards, yes, but there is enough light there to see that the rain was coming—

Q. I asked you did you walk on these boards? A. If it is in the picture, if that is the right picture, I walked on them.

Q. You see this pipe in the picture? A. Yes, sir.

Q. Is that part of the pipe that goes down through the house or is that another pipe? A. I didn't notice that one. Wait a minute. (Examines picture again.) I didn't notice that.

Mr. Wilentz: A little louder. "I didn't notice that."

A. I didn't notice that.

Q. Did you look at these boards at all while you were in the attic? A. Naturally, I got glasses and I got to look down.

Q. Did you? Did you? A. What is that?

Q. Did you look at the boards? A. I looked at them, certainly, when I walked along.

Q. You had your glasses? A. Certainly.

Q. And you had your candle? A. Yes, sir.

Q. Now did you see any board missing from this board to the board over to this wall? A. No, I didn't see that.

Q. How long— A. I didn't see that.

Q. How long were you up there where you had the light, the natural light from the window? A. As long as I was there.

Q. Well, how long was that? A. Oh, about six or seven minutes. That's all I need to see anything.

Q. Well, you had the natural light from the window and you had your candle, didn't you? A. Right.

Q. And you didn't notice any board that was missing? A. No, I didn't notice any.

Q. Well, did all the boards appear to you to be in their place? A. Right.

Q. As you approached the window of that attic, the light got better, didn't it? A. Yes, but I didn't go close to it; I walked a ways over and I could see the rain was coming in.

Q. Well, how close did you come to the window? A. Well, I would say about four foot.

Q. Four feet? A. Three feet.

Q. Three feet? A. Yes.

Q. And did you stand in front of the window or to the left of the window or the right of the window? A. Well, the closet is a little bit—wait. The closet was a little bit on the side.

Q. Which side? A. Wait a minute. In the center window it came down—no, it is pretty near the same, the same as where the window is, the closet coming down.

Q. Your best recollection is that you didn't notice any board in August, 1934, that was missing? A. No, sir.

Q. From this attic? A. No, sir.

Q. Now, you had been down in Rauch's cellar many a time, hadn't you? A. Right.

Q. Did you see any boards down there in Rauch's cellar? A. Yes, I did.

Q. When? A. When I first went down there.

Q. When was that? A. 1931.

Q. How many boards? A. Well, 1931—wait a minute. I told them about getting boards.

Q. Never mind about that.

Mr. Reilly: I will consent to strike it out.

Q. Will you please— A. November, I went down; in November.

Q. 1931? A. 1931? Right.

Q. Do you know when the house was finished? A. No, I didn't go near it.

Q. What was the occasion of your going there in November, 1931? A. I was called by Mrs. Rauch.

Q. Take your hand down from your mouth, please, Mr. Miller; sit back and rest. Mrs. Rauch called you in November, 1931? A. Right.

Q. And was it necessary for you to go into their cellar then on that visit? A. Yes.

Q. Now, what kind of boards did you see in the cellar, please? A. Well, they looked to be about five inches, five or five and a half. There was two of them. They were on a slant.

Q. What part of the cellar? A. Well, as you go down the stairs you turn around to your left and there is a room is off with lock and key to get into them cellars.

Q. Have they got individual bins; is that what you mean? A. There is no bins. Mrs. Rauch is the only one has got a key for that cellar.

Mr. Wilentz: I move that that be stricken out.

The Court: Yes; strike that out.

By Mr. Reilly:

Q. Were there sleeping apartments down in the cellar or living apartments, or what kind of rooms? A. Well, I tell you: Mrs. Rauch had a cot there, a lounge, a cot.

Q. Was the cellar divided into rooms? A. Well, you really could call one of them a room.

Q. One was a room. Now, where did you see the two boards? A. Right in under the stairs.

Q. Do you know anything about wood? A. Well, a little bit.

Q. Could you give us a better description of the kind of wood you saw? A. Well, to tell you what I call floor roughing is roughing it is plain, ordinary wood.

Q. I want you to look at State's Exhibit—

Mr. Reilly: What number is this?

Mr. Wilentz: 226.

Q. —226. Do you see that board? A. Yes.

Q. Was that the board that you saw, the two boards in the cellar, or either one of them, in Rauch's in November, 1931? A. It is a hard thing to say if that was the board.

Q. I didn't ask you if that was the board. I asked you if that was of the same general description as that. A. Yes. They were rough. That is what you call rough flooring. There was a bead on it. It is something like that.

Q. A bead on rough flooring? A. Yes, some of it have an L-lap.

Q. And were the boards that you saw in November, 1931, in Rauch's cellar similar in appearance and description to this board that I show you? A. Right. It is about six-foot high, isn't it?

Q. It is a little bit higher than that. A. Yeah.

Mr. Reilly: I was six-foot high when I came to Flemington. I think I have shrunk some.

The Court: Mr. Reilly, I will ask you to discontinue the testimony for a minute. I have a communication from the gallery. The communication comes, I think, from the press, and it says that there are people standing in the entrance to and from the gallery. That we are bound to prevent for reasons which I shall not undertake to discuss.

The people who are standing in the entrance to the gallery and other people who are unable to get seated may retire. Let them depart. Those passageways must be kept open. Well, now, there is a gentleman standing there—and

can he find a seat or can he not? He seems to find a seat.

Now you may proceed, Mr. Reilly.

By Mr. Reilly:

Q. You were then called in many times after November, 1931, by Mrs. Rauch; is that correct? A. Right.

Q. Did you repair this space on the roof or did you leave some material or paint of some kind for Mrs. Rauch to repair it? Yes or no. A. I left some material. I didn't repair it.

Mr. Reilly: You may take the witness.

Cross-Examination by Mr. Wilentz:

Q. I think you said this was a clothes closet; did you mean that? A. What is that?

Q. My recollection of your testimony to Mr. Reilly is that you said this was a clothes closet, the closet; did you mean that? A. Well, a clothes closet ain't got two shelves in it.

Q. Well, was it a clothes closet? A. No.

Q. Well, my recollection is that was your testimony and if you answered Mr. Reilly that way that is a mistake, is it? A. Why, no; it ain't a clothes closet.

Q. It isn't? A. Why, no, I would call it more of a linen closet.

Q. And this was, when you went up there it was in the daytime in August? A. Right in the afternoon.

Q. And was it raining at that time? A. Right.

Q. What day of the week? What date, I mean? A. Here (referring to envelope.)

Q. No. Do you know the date? A. No. Early August.

Q. Early August?

The Court: Of what year? Of what year?

The Witness: '34.

Q. Now, the pipes—just put that envelope down again, will you, please. A. Right—shoot.

Q. Sir? A. Go ahead.

Q. Shoot? A. No, I mean go ahead.

Q. Now, let's see. The pipes in this closet were opposite the shelves, weren't they; the shelves on one side and the pipes on the other? A. As you look to it the shelves are on the right side.

Q. Yes, sir; and the pipes on the left? A. The pipe on the left.

Q. Or the pipe, yes. A. One pipe.

Q. That is the pipe that had the leak, you mean? A. Right.

Q. Now, let's see. Assuming now that this bench here is the entrance to the closet. As I am facing it, you could face it, couldn't you? A. Right.

Q. Now, to the right and on the side were the shelves—is that right? A. Yes.

Q. And to the left was this pipe? A. Yes.

Q. No question in your mind about that? A. No.

Q. So that whatever leak came down that pipe came down on the side opposite the shelves? A. Right.

Q. No pipe through the shelves, was there? A. Not through the shelves.

Q. No, sir. A. No.

Q. Away from it on the other side, is that so? A. About two, say about three inches, something like that.

Q. Three inches away from the shelves? A. Right.

Q. And you went in and looked at this closet, didn't you? A. Right.

Q. And then you went upstairs. A. That's right.

Q. Now, of course, you want to tell the story just as you remember it, don't you, Mr. Miller? A. Right.

Q. And you don't want anything except what you saw. A. That's all.

Q. Is that right? A. Right.

Q. And that's what you are here for. A. That's it.

Q. Now, if I suggested to you that the pipe, maybe, is eight inches away, do you think that that might be too much or that maybe that's correct? A. Well, I think that's a little too much, eight inches.

Q. Well, it might be six inches away? A. Well, we will say that.

Q. Yes. All right. So that we can get along then on the statement that the pipe was probably six inches away from any shelf. A. Yes, sure.

Q. Now when you were in there, was it actually raining the very moment you were there? A. Yes.

Q. Was there water coming down on this pipe? A. Right.

Q. And the water, I take it, fell on the floor? A. It—

Q. It finally reached the floor? A. Right. Water always finds its own level. It comes down wherever there is a hole. (Laughter in the court room.)

Q. Well, all right, we won't argue about water finding its level. A. Right.

Q. But the water came down that pipe when you saw it and finally struck the floor? A. Right.

Q. And that's where it was wet? A. Well, the whole wall was wet like, the wall coming down.

Q. Right about where that pipe was? A. Yes.

Q. Now let's get to this attic floor and let me read you your testimony when you started. A. Go ahead.

Q. "Did the board walk extend all through the attic?" That was the question Mr. Reilly put to you; do you remember it? A. I didn't know—

Q. No, just tell me. Do you remember the question Mr. Reilly asked you: "Did the board walk extend all through the attic?" A. He asked me that.

Q. And do you remember this, your answer: "Well, that I didn't know. I walked about half way, that is I walked about one-quarter one way and one-quarter the other way." A. That's it.

Q. So that you didn't know— A. Yeah.

Q. —you answered whether the board walk extended through the attic? A. Yeah.

Q. You didn't know, did you? A. No.

Q. No question about that, you didn't know. A. I didn't know.

Q. And you don't know now? A. No.

Q. So you don't know whether the board walk extended through the attic or not? A. No, I didn't look.

Q. Certainly not. A. I didn't need to go there.

Q. Never mind about whether you needed to go there. You didn't look. A. No.

Q. And you don't know? A. No.

Q. Well, now let's see. That is the attic. You are a plumber, you say. A. Yeah.

Q. You were a plumber. A. Huh?

Q. You were a plumber at that time? A. Yes, and I am yet.

Q. And you are yet? A. Right.

Q. And you were looking for pipes? A. For pipes?

Q. Pipes, pipes that leaked, pipes. A. Yeah.

Q. And you were up in the attic for that purpose, weren't you? A. Right.

Q. Do you see that pipe, that big pipe? A. Which big pipe?

Q. Right there. A. Yeah.

Q. How big would you say that was? A. That there is a two-inch pipe.

Q. How far does it extend? A. Huh?

Q. As you see it. A. What do you mean, extend?

Q. Well, the distance from the wall to where it finally goes down. A. That there—that looks to be about six foot.

Q. Six foot? A. Something like that.

Q. Then it turns off in another direction. About how many feet of pipe do you see there now? A. Where?

Q. Pointing— A. I don't know.

Q. Well, it looks like a little more than six feet. A. Yes, a little longer.

Q. So in one direction that pipe went six feet, about, and in the other direction more than six feet. A. Yes, it looks like.

Q. And you never saw that pipe, did you? A. No, I didn't notice that pipe.

Q. And you were looking for pipes and leaks, weren't you? A. Right.

Q. Now you saw a board down in the cellar one day. A. Right.

Q. A piece of wood. A. Yeah.

Q. It didn't have anybody's picture on it, did it? A. A piece of wood?

Q. Yes. A. No.

Q. Was there anything on it at all that was distinctive? A. Nothing but floor wood, rough wood.

Q. Rough wood? A. Right.

Q. What kind of wood? A. Well, similar to that.

Q. Ponderosa pine? A. What?

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

Q. No. You don't know the kind of wood. A. Regular rough wood, what we call rough wood, rough flooring.

Q. Rough flooring? A. Right.

Q. About how wide? A. Oh, about five—something around five inches.

Q. Two pieces of wood? A. Oh, they were long—you mean the length?

Q. Two pieces of lumber? A. They looked to be about six feet each.

Q. Two pieces of lumber? A. Lumber.

Q. Well, two pieces of wood or lumber? A. Yeah.

Q. They were lumber, weren't they? A. They were about six foot each.

Q. Was it lumber? A. They were lumber. It is called lumber. Wood is lumber.

Q. Yes. So I say there were two pieces of lumber. A. Yes.

Q. You have never seen those pieces since, have you? A. No.

Q. Never? A. I never bothered looking any more.

Q. Whether you bothered or not, you have never seen them since, have you? A. I didn't need to go in there to see them.

Q. But you have never seen them since, have you? A. No.

Q. Now when was the next time you were in that cellar? When was the next time that you were in that cellar? A. In the cellar?

Q. Yes; after November, 1931. A. After November, 1931?

Q. Were you ever in there again? A. Yes, I was.

Q. When was the last time? A. The last time, around March, '34.

Q. March, '34? A. Right.

Q. Now, there was a radio in the cellar and there were rugs and a whole lot of other things, weren't there? A. I don't know.

Q. You don't know whether there was a radio there? A. No, I don't.

Q. What was in the attic? A. I didn't know what was in the attic.

Q. Didn't you notice the rugs there? A. Nothing was in the attic that I noticed.

Q. Didn't you notice the radio and the rugs there? A. In the attic?

Q. In the attic; in the attic of the Hauptmann home? A. No, I didn't notice them.

Q. Was there anything in that attic? A. No, not that I see.

Q. You might not have seen it you mean? A. Yes, I might not—I didn't look for it.

Q. In other words, it might have been there? A. I didn't look for it.

Q. Is that what you mean, sir? A. I didn't look for it.

Q. I know you didn't. You were looking for pipes? A. That's all.

Q. You didn't see the pipes, either, did you? A. Yes, I did.

Q. You won't say that there wasn't a radio in that attic, will you? A. I didn't see it.

Q. Well, you didn't look for it? A. I didn't need to.

Q. Will you tell us whether there were any rugs up there? A. No, I didn't notice any. If they were down in between I don't know. I only walked on the board walk.

Q. Now, you have talked to the Department of Justice or Federal men and also to— A. Right; go ahead.

Q. Did you suggest to Detective Tobin and Detective Bornmann, or either one of them, when they were talking to you that it would be a good idea to search the drain pipe? A. No.

Q. Did you tell either one of them or both of them when they asked you about Hauptmann: "Well, I will tell you. I always had a feeling"—

Mr. Reilly: I object to what he said about Hauptmann.

The Court: Is this in contradiction of something or other?

Mr. Wilentz: No, I don't think it is, if your Honor, please. I think counsel is—I withdraw the question.

By Mr. Wilentz:

Q. You always carried a candle or match; one or the other? A. Right.

Q. Because you never knew where you were going to go? A. Right.

Q. And the candle and match were your protection? A. Yes.

Q. But you don't know anything about the floor boards in the attic, do you? A. I am telling you what I know; that they were about five feet—five inches wide.

Q. But you don't know anything else about the attic? A. What do I need to look for an attic for if I'm looking for what I want?

Q. You don't know, though, whether all the boards went across or not? A. No.

Q. No. All right. How long did you look at this closet when you were looking at? A. Oh, just went up and seen where it was, and then went up.

Q. Just went up and seen where it was and then went up. A. Right.

Q. I am talking about the closet now. A. Right. It only takes me a fraction of a minute to see something.

Q. Yes, sir. Is that all you looked? A fraction of a minute, or did you stay there a while? A. Oh, maybe, after I seen that—you want me to tell you?

Q. No, all I want to know is this—no catch about it at all. A. Listen—go ahead; there ain't no catch in me.

Q. All I want to know is how long you looked in the closet every time you had been there on that day. A. Well, here—can't I get down and show you how much now? Can you time it?

Q. Now, please, let's not argue about it, just tell me. A. No, I don't want to, but—

The Court: Oh, now, here, Mr. Witness. You answer the Attorney General's question, you answer his question.

A. Well, I couldn't tell him, maybe two, three minutes.

Q. All right; is that your best answer? A. Yes, about that, that is all it takes.

Q. All right. So that about three minutes— A. Right.

Q. —you were looking at that closet? A. Right.

Q. And at that time your eyesight was pretty good, was it? A. Yes.

Q. That was in August? A. Right.

Q. 1934? A. August, yes.

Q. It was in—about what time would you say during the day? A. In the afternoon it was.

Q. During daylight? A. Well, around two o'clock, something like that.

Q. Well, it was during daylight? A. Yes.

Q. There was a very big window immediately adjoining— A. Around two o'clock; just the dot, I couldn't tell you.

Q. That is all right. There is a very large window, isn't there, immediately adjoining the closet to your right? A. (No answer.)

Q. Well, if you don't remember it— A. Wait a minute.

Q. Will you take a look at this, maybe it isn't the window, I don't know; there is a shade there now (referring to Exhibit S-264.) A. Oh, that is over the tub.

Q. I know, but that is immediately adjoining the closet? A. Yes, but I can't—

Q. Now please don't argue with me. Is there a window adjoining the closet, not in the closet, but adjoining it? A. That is a kitchen window.

Q. Well, I know it is a kitchen window. A. On the side of it.

Q. It is in the kitchen, isn't it? A. On the right.

Q. On the right? A. Right.

Q. Right next to it, isn't it? A. Right. I don't even have to look at it, I know it.

Q. All right, it is a big window, isn't it. A. Well, it is what they have mostly in country houses.

Q. It is larger than these windows, isn't it (indicating court room windows to the right of the witness)? A. No.

Q. About the same size? A. No, it is a half window. It is a half window.

Q. I don't mean the height of it; I mean the width. A. No, not quite as big as them.

Q. Well, would you say it is as wide as these windows (indicating windows in back of court.) A.

Yes, about that there; standard size; around 30, 30, 32.

Q. About the width of that one right along side of you? A. Yes.

Q. And you had no trouble seeing what was in that closet? A. No, not there.

Q. Not at all, did you? A. Not there.

Mr. Wilentz: All right, sir, that is all.

Re-Direct Examination by Mr. Reilly:

Q. What would be the use of this two-inch pipe? What would be the use of that pipe in the attic? Would that be a water pipe? A. A two-inch pipe.

Q. The pipe which you see on the photograph, which you say you didn't notice that day. A. Yes.

Q. Is that a water pipe? A. That's an air pipe.

Q. Is that an air pipe? A. Yes. That's what they call a—a branch air pipe.

Q. Where would that run? To some bathroom downstairs? A. Well, it is a vent, that's a vent, that's what it is.

Q. It is a vent? A. Yes. Excuse me, I am kind of puzzled on that.

Q. The pipe— A. That's a vent.

Q. All right. In order to get over to the window— A. Yes.

Q. —even if you did stop three or four feet away from the window, you walked on some boards, didn't you? A. Right.

Q. The pipe that you saw the water running down was the pipe that ran through the broom closet in the kitchen; is that right? A. Right; right.

Q. And that ran, as you testified, straight up through the house and out the roof? A. Right.

Q. Was there any bend in that? A. Well, I didn't even look for the bend. All I do is look for

the hole where it is coming down.

Q. Did you see the hole? A. Certainly.

Q. And you saw the water coming down? A. Right.

Q. Then you went downstairs and told them what to do? A. Yes. No—I went down—as I turned around I seen water coming through that window. Then I jumps downstairs, goes in the center room, and there I see it coming through the ceiling. I went downstairs and there was Mr. Hauptmann and I said, "Here, listen"—

Mr. Wilentz: Just a minute.

A. (Continuing) —"see that window"—

Mr. Wilentz: Just a minute, now. Never mind what you said to Mr. Hauptmann.

Mr. Reilly: I will consent that that be stricken out.

Q. Where was the hole in the roof that you saw this water coming in? A. Well, it was past center.

Q. Past center? A. Right. It is a peaked roof.

Q. In the direction of this window? In the direction of that window? A. No. The window is about the center. The window is on the southeast side.

Mr. Reilly: That is all.

Re-Cross Examination by Mr. Wilentz:

Q. Did the water come down through the center room? A. Yes.

Q. Through the center room? A. Yes.

Q. That is all? A. Where the baby's room was.

Q. Where the baby's room was? A. Well, what they call the baby's room.

Mr. Wilentz: That is all.

Mr. Reilly: Mr. Main. He is in the outer room.

THERON J. MAIN sworn as a witness in behalf of the defendant:

Direct Examination by Mr. Reilly:

Q. Where do you live? A. Warsaw, New York.
Q. Is that in the northern part of the State. A. Well, it is near Rochester.
Q. Near Rochester? A. Yes.
Q. In 1934, were you in New York? A. No.
Q. In 1933? A. Yes.
Q. What part of New York were you in, New York City? A. Well, I am not very familiar with New York City. I came in the Hudson Tunnel and was on Broadway and went on Riverton Street.
Q. Now do you remember when it was? A. I came into New York, August the 2d, 1933.
Q. What did you come in with? A. A truck.
Q. Did you have a shipment to deliver in New York? A. I did.
Q. What is your business in Warsaw? A. Well, at that time I was in the trucking business and parts store, automobile accessories.
Q. What is your business now? A. Automobile accessories and new tires and trucks.
Q. In Warsaw? A. Yes, sir.
Q. You don't know any of us in the court room? A. I haven't seen anyone I knew since I left home.

Q. And you left home yesterday, did you? A. Yes.

Q. To come here and testify? A. I did.

Q. Of your own free will? A. Yes.

Q. Is that correct? A. That is correct.

Q. You don't know Hauptmann— A. No, I never saw him.

Q. Or anybody connected with the defense, is that correct? A. That is correct.

Q. Now on August the 2d or 3d, whenever it was that you were in New York with this shipment, did you finally go to a bank? A. I did.

Q. And did you go to have a draft cashed? A. I went to have a check cashed.

Q. Was it cashed, yes or no? A. Yes. It was.

Q. And did you see some people in the bank? A. I did, sir.

Q. And did you look at one person in particular? A. Yes.

Q. I show you the Defense Exhibit 39 and ask you whether you saw that man in the bank. A. Yes, I did.

Q. Did the man at the bank whose picture you have identified speak to you in the bank? Yes or no. A. No.

Q. Did you leave the bank? A. I did.

Q. Well, on that evening were you in a restaurant in the lower part of New York? A. I was.

Q. How far away was he from the bank to the best of your recollection? A. About six blocks, I would say.

Q. And about what time were you in the restaurant? A. 2:30 in the morning of the 3d of August.

Q. Did you see the same man in the restaurant? A. I did.

Q. Did he have a conversation with you, yes or no? A. Yes.

Q. What was he doing in the restaurant when you saw him there? A. Drinking a bottle of beer.

Q. Were there any games played in that restaurant? A. No games, no.

Q. Was there an automatic game there? A. Why, there was one of these cranes that pick out cigar lighters and cigarette lighters.

Q. Well, that is a game, is it? A. Well—

Q. You dropped something in a slot, is that correct? A. Put a nickel in it.

Q. You put a nickel in it? A. That is right.

Q. Then you twist the crane around, is that correct, and it scoops down and gets prizes that is in the candy? A. There is a knob that regulates the swing and so forth of it.

Q. Well, now, was that man playing the game, yes or no? A. Yes.

Q. Were you? A. No.

Q. What were you doing? A. Why, I stood at the counter eating.

Q. Did you see the man do anything in connection with money, yes or no? A. He gave the bartender a $20 bill.

Q. Did you look at it? A. Not at that time.

Q. Well, were you close to the man when he gave the bartender a $20 bill? A. Why, I could see it, that was all.

Q. Was it a greenback or a gold note? A. It was a gold note.

Q. After that did you leave the restaurant, some time after that? A. I did, say twenty-five minutes.

Q. Did this man whose picture you have identified leave the restaurant with you? A. He followed me out.

Q. Followed you out. When he came out on the sidewalk and followed you out, did he come up to you and make contact with you? A. Yes, he did.

Q. Did he talk to you? A. Yes.
Q. What did he say?

Mr. Wilentz: I object to the question—

Mr. Reilly: Now—

Mr. Wilentz: —as not being competent for the same reason we have argued before, if your Honor, please.

Mr. Reilly: This witness is offered, who comes here from the northern part of the State, as he says, and offers his testimony, and it is offered for the same purpose, same general direction of the last witness, a little bit more formality, that a certain—that this man Isidor Fisch, whose picture—

Mr. Wilentz: Well, I object, if the Court—

Mr. Reilly: Well, he has identified it.

Mr. Wilentz: The Court knows the purpose of it and I understand it is the same purpose.

Mr. Reilly: Well, I want to get on the record that I bring him here for the purpose of showing, if it is permitted by the Court, that Isidor Fisch at that time and place wanted to exchange gold notes with him.

Mr. Wilentz: That is what I object to, if your Honor, please.

The Court: The present question is—

Mr. Wilentz: What Isidor Fisch said to him.

The Court: Yes. That objection is sustained.

Mr. Reilly: Exception.

The Court: Take your exception.

(Exception allowed, and the same is signed and sealed accordingly.)

(s. s.) THOMAS W. TRENCHARD,
Judge.

By Mr. Reilly:

Q. What did Isidor Fisch do? Now, don't give us any conversation, but what did Isidor Fisch do, if he did anything, in connection with any gold notes or gold bills that he had in his pocket after he made contact with you on the street? A. I don't quite understand your question.

Q. Did Isidor Fisch exhibit to you on the street any gold notes? A. Yes.

Q. Where did he take them from? A. His pocket.

Q. Which pocket? A. I won't say.

Q. How many gold notes would you say he had?

Mr. Wilentz: Well, I object to that, if your Honor, please, as not being material at all.

Mr. Reilly: I think it is very material.

Mr. Wilentz: It is not at all material, if your Honor, please. We have argued the matter.

Mr. Reilly: This witness is in a little different position.

The Court: It doesn't appear that this witness has any means of knowing how many he had. You may ask if he knew.

The Witness: That would just be an assumption. That would be all. I couldn't say how many.

Mr. Wilentz: Just be what—just be a guess?

The Witness: It would just be an assumption. I couldn't tell how many.

The Court: He says it would just be an assumption. He cannot tell anything about it.

Mr. Reilly: I will follow your Honor's suggestions, of course.

Q. You didn't know Isidor Fisch, did you? A. I didn't ever.

Q. Never had any contact with him since, is that correct? A. No.

Q. Did you identify in your mind his picture some time after the arrest of the defendant? A. In the Buffalo Evening News.

Q. About what date? A. Well, the paper was dated January 8th.

Q. This year? A. Yes.

Q. When did you see that paper? A. January 27th.

Q. And I believe that you brought along that picture with you, didn't you? A. I haven't it with me now. I did have this morning.

Q. Where did it go? A. I think it is in my grip at the hotel.

Q. Oh. Is that across the street? A. Yes.

Q. Well, it was a picture from the Buffalo Inquirer? A. Buffalo Evening News.

Q. Buffalo Evening News? A. Right.

Q. And when you saw the picture in the Buffalo Evening News of Isidor Fisch in January of this year, did you then check that picture with the man that spoke to you and followed you out of the restaurant? A. I did.

Q. And then you believed that that was important enough for you to volunteer your services and your testimony here at this trial: is that correct? A. It is correct.

Q. And you are not getting paid a cent for it, are you? A. I haven't.

Q. Your carfare was paid and that is all? Or did you come by automobile? A. I drove my car down.

Q. Then you are out. But in this group or bunch of gold notes that Isidor Fisch had, which he exhibited to you— Will you give your best recollection— and that is all we want—if you can tell us, how big the roll was. Or just describe it, please.

Mr. Wilentz: Just a minute now, if your Honor please. The witness has already stated that it would be assumption and he can't tell.

The Court: He has stated that.

Mr. Reilly: May we not have his best recollection?

Mr. Wilentz: We don't want his recollection, if he doesn't know, I submit, sir.

Besides it is not at all material, if your Honor please, or competent in this case.

The Court: Well, that may be so. I think that I shall sustain his objection.

Mr. Reilly: I except.

The Court: Take your exception.

(Exception allowed and the same is signed and sealed accordingly.)

(s. s.) THOMAS W. TRENCHARD,
Judge.

By Mr. Reilly:

Q. How long were you in the man's company? A. You mean the first time that I met him or the last?

Q. The time that he followed you out of the restaurant on the street. A. Oh, I'd say a half an hour.

Q. Have you ever seen him since? A. I have not, sir.

Q. How seldom or how frequently do you come to New York City? A. Well, I have only been there five or six times in my life.

Q. Five or six times in your life? A. Yes.

Q. And how many times have you been there since November, since this particular time in August—1933, was it? A. Yes. I have never been in New York since then.

Q. Never been in New York City since then? A. No, sir.

Mr. Reilly: You may have the witness.

Cross-Examination by Mr. Wilentz:

Q. What is a gold bill? When you talk about a

gold bill, what do you mean by that? A. I don't mean it is made of gold; just that it is a gold certificate.

Q. Well, what do you mean by that? A. Well, it is yellow on one side and green on the other.

Q. A twenty-dollar bill, wasn't it? A. Yes.

Q. I have brought one for you (showing witness a twenty-dollar bill.) A. A twenty-dollar bill.

Q. Take a look at it. One side of it would be green, the front of it would be like that, is that it, substantially? A. Why, I would say similar to that.

Q. And the back of it would be yellow? A. Yes.

Q. Is that what you mean? A. Or vice versa, one or the other.

Q. Well, one of the sides would be a yellow back. A. Yes.

Q. No question about that in your mind? A. Yes, and there is gold mixed into perhaps the other side.

Q. Yes. A. A yellowish tint.

Q. In other words, this twenty-dollar bill that you talked about was what we call a gold yellow back, is that what you mean? A. A gold certificate, yes.

Q. But the back of it was yellow as distinguished, or a goldish yellow— A. Yes.

Q. —as distinguished from green. A. Yes.

Q. And that, of course, was right across the back or one of the sides of it; that was the color of it. A. Yes.

Q. You know what a gold bill is, a gold back, don't you? A. I should.

Q. You have seen some of them? A. Hard to get, but I have seen it.

Q. Yes, but you have seen them. A. Yes, sir.

Q. And you distinguish a gold back, when you talk about a gold bill or a gold note, such as you did today, you talk about that as distinguished from a green back. A. That's correct.

Q. So that there is no question in your mind that

when you saw a twenty-dollar bill you saw a gold back? A. Correct.

Q. That was when he delivered a twenty-dollar bill to the cashier, or whoever it was, in the restaurant? A. Yes; but I eventually got the bill.

Q. You eventually got that bill? A. Yes, sir.

Q. Where is it? A. I cashed it half way between Troy and Mainsburg.

Q. So that since you did eventually get the bill, you had more than a casual observation of it? A. I had it in my pocket. I looked at it.

Q. And then afterwards you cashed it and you saw it again? A. Yes.

Q. Goldish yellow or yellowish gold on one side and green on the other? A. Right.

Q. You could tell just by a glance it was a yellow-back? A. It was a gold certificate. It said United States, payee.

Q. Yes. What I am talking about is the color of the back. You could tell just by looking at it? A. It was yellowish.

Q. Yes, sure. Haven't you read in every paper in this country that the gold bills didn't have any yellow backs or gold backs to them? A. I did not.

Q. Don't you know the only reference to gold is a little seal saying it was a gold certificate and it wasn't yellow or wasn't gold at all? A. I did not.

Q. But you are sure that you saw that yellowish gold on the back? A. Yes, it is all in it.

Q. You never saw this man before in your life until you saw him in the restaurant? A. I did not.

Q. You don't know a thing about the Lindbergh crime, do you? A. Only what I have read in the papers, that is all.

Q. Have you ever seen this picture S-288? A. No, I never have.

Q. Have you ever seen this one, S-287? A. No.

Mr. Wilentz: Both for identification.

Q. Have you ever seen the men whose pictures these attempt to portray? A. (No answer.)

Q. Is that a picture of the man you saw that night and the picture you have just identified? A. It don't seem to be. This one especially.

Q. Will you say it is or will you say it isn't or will you say you don't know? A. I will say it is a poor picture of him, if it was.

Q. You will say it is a poor picture. Is it a resemblance? A. The nose.

Q. The nose is a resemblance? A. The width of the nose, the ears.

Q. Now you are looking at a side view. Take a look at the full view, that will help you, won't it, looking at the full view? A. The forehead is not high enough.

Q. Well, will you say that it is not the man that you saw that night or that it is or that it is a resemblance or give us your best judgment? A. I wouldn't say.

Q. You won't say you don't know? A. I wouldn't.

Q. Sir? A. I wouldn't.

Q. So that you don't know whether that is the man that you talked to that night or not? A. The forehead is not as high as the man.

Q. Will you say that these pictures are not pictures of the man that you talked to that night? A. I would not.

Q. You won't say that you didn't talk to him? A. I wouldn't say yes or no.

Mr. Wilentz: As to S-288 and S-287 for identification.

Q. What bank was it that you were in that day in

New York? A. It is the Terminal Branch of the Corn Exchange.

Q. Do you know anybody in that bank? A. No, I do not.

Q. You don't know the name of any person at all? A. Not in the bank; no, sir.

Q. Whose check did you cash that day? A. Roycroft & Sons.

Q. Made out to whom? A. The Eastern Transportation Lines.

Q. Is that your company? A. Yes.

Q. And you cashed it without—were you identified there? A. I was identified.

Q. By whom, sir? A. Miss Fortier.

Q. Does she work there? A. It is Miss Claire Fortier.

Q. Does she work there? A. No.

Q. Does she live in New York? A. Yes, she lives in New York.

Q. Where? A. Her address I do not know; I know where she works.

Q. Where does she work? A. At 61 Dey Street.

Q. Now, the twenty-dollar bill you saw didn't have that kind of a back, did it (exhibit twenty-dollar bill to the witness)? A. Well, I don't know whether it was the back or the front; the yellow was on. I am not sure as to which side it was on.

Q. Well, it was yellow all over, you said? A. No, not all over.

Q. Gold and yellow? A. No, there was gold all mixed into it.

Q. All mixed in throughout the entire face or the back of the bill? A. One side or the other; I wouldn't say which side.

Q. Now, please don't hedge with me; didn't you tell us—

Mr. Reilly: I object to that.

A. I want to tell the truth about it.

Mr. Reilly: That was asked before and I object to this witness who comes here being bullied.

The Court: Well, I know he is cross-examining him. I do not see any fault to be found with it.

You may proceed, Mr. Attorney General.

By Mr. Wilentz:

Q. Didn't you state a while ago, sir, that there was gold all the way across, yellow all the way across one side or the other. A. No, there is yellow on one side or the other, but not the whole bill itself.

Q. Certainly; on one side or the other. A. Yes.

Q. But on the side it is yellow, it is yellow across that side, isn't it? A. Well, it is mixed in at different places; you know what I mean.

Q. Well, you know— A. You know what I mean.

Q. I asked you whether you knew what a yellow or gold back was and you said you did. A. I tried to explain it by saying it was a gold certificate—will pay to the bearer on demand in gold.

Q. Well, it wasn't one of these, was it (showing bill to witness)? A. It was not exactly like that bill, I do not think.

Q. I see. (Showing the witness one of the ransom bills with the initials—whatever the initials are —out of Exhibit—what is it?

Mr. Reilly: The number on this bill is 81863610 3A.

Mr. Wilentz: That is right. That is all.

Re-Direct Examination by Mr. Reilly:

Q. Now you had a chance to read what was on the bill that came into your possession? A. I read it when I cashed it.

Q. Yes. You say when you cashed it. Do you mean when you changed it? A. When I gave it to Mr. Bradford. I bought some gasoline and had my breakfast there.

Q. Will you tell us again what is your best recollection as to what was on that bill? A. Well, it said, "Pay to the bearer on demand in gold."

Q. How much? A. $20.

Q. United States of America? A. Right.

Q. Now you notice, do you not, on the bottom of this ransom bill, as we will call it for designation, the words, "Twenty dollars in gold coin payable to the bearer on demand." A. Yes, sir.

Q. Yes. Now I want you to look in your pocket and see if you have any memoranda that shows you were in New York that day. A. There is a freight for part of the shipment. That is where we took the— That is only part of the load. There was eight ton altogether. That is the only bill I have.

Q. Now is it a fact that you shipped or carted from Perry Knitting Company consigned to Rothkopf & Sons, destination New York, route Ace Transportation Company, a shipment that you picked up at Perry, New York, July the 31st, 1933?

Mr. Wilentz: Just a minute. I object to the question as not being material, if your Honor please. He has testified he was in New York.

Mr. Reilly: I think it is quite proper under cross-examination, when he asked him about the check and how he was identified and who identi-

fied him, and he said he knew a lady that worked some place, but he didn't know where she lived, to show by these memoranda that he brings here that on the 31st of July right down to the date that he was in New York.

Mr. Wilentz: It is not at all material, and it wouldn't prove a thing about Isidor Fisch, not a thing.

Mr. Reilly: No, but it proves he was in New York.

Mr. Wilentz: Well, I am not saying that he was or he wasn't. You already have that under sworn testimony.

The Court: It doesn't seem to be—

Mr. Reilly: Well, if they make no point about the fact that he was not in New York, I will give them back to him.

The Court: I have heard no suggestion from the Attorney General that he wasn't there at all.

By Mr. Reilly:

Q. Now this bank, you told us where it was, and you told us you had a check made payable to the Ace Trucking Company, is that right? A. That's correct.

Q. And you were identified and it was cashed, is that correct? A. Yes, sir.

Mr. Reilly: That's all.

Re-Cross Examination by Mr. Wilentz:

Q. You didn't know Fisch before the day you got there in New York? A. I never saw him.

Q. You never saw him any time afterwards? A. I never did.

Q. You never got his name from him? A. I did not.

Q. Whoever the man was you were talking to, you never ascertained his name? A. No, I didn't.

Q. Never? A. I never did.

Q. Don't know anything about it? A. I do not.

Mr. Wilentz: Thank you, sir.

By Mr. Reilly:

Q. But you remember his face don't you? A. I do, sir.

Mr. Reilly: Yes, that's all.

By Mr. Wilentz:

Q. Well, why can't you remember the other pictures I showed you, sir?

Mr. Reilly: There is nothing in the evidence—

Mr. Wilentz: Just a minute.

Mr. Reilly: I object to it, Judge. There is nothing in the evidence here; he pulls two pictures out of his pocket for identification; we have never been able to see them; there is nothing in the record that those are Isidor Fisch's pictures at all. We haven't had a chance to

question anybody about them. He flashes them at the man and pulls them away.

Mr. Wilentz: Oh, I don't flash them at the man at all, and if it wasn't right, Mr. Reilly would have objected a week ago.

The Court: Mr. Attorney General, so far as I recall there is no evidence that these pictures are the pictures of Fisch, if that is who they are supposed to be, and the objection to your question is that it seems to embody the assumption that they are.

Mr. Wilentz: Well, I think that your Honor is right about that and I won't attempt to argue it.

By Mr. Wilentz:

Q. At any rate, until you saw a picture in 1935, a picture of a man under whose picture the name was Isidor Fisch— A. That's correct.

Q. —that name never crossed your mind or your thoughts? A. It did not.

Q. And never came to you? A. It did not.

Q. In any way at all? A. It did not.

Mr. Wilentz: That's all, sir.

The Witness: May I be excused to go home now?

The Court: I think so.

Mr. Reilly: You can go home now.

Mr. Wilentz: Yes.

Mr. Reilly: Thank you very much for coming down.

Mr. Wilentz: You have the thanks of both sides.

The Court: Those people in the courtroom that persist in talking, we will give them a chance now to retire and they can talk on the outside. Those people that want to talk will just get up and go out and, if you stay here and persist in talking again, I am going to clear the courthouse. We don't propose to be interrupted in this fashion.

Now, then, Mr. Reilly—

Mr. Reilly: Mrs. Henkel.

GERTA HENKEL, sworn as a witness in behalf of the defendant:

Direct Examination by Mr. Reilly:

Q. Mrs. Henkel, where do you live? A. 342 East 156th Street.

Q. Is that in the Bronx? A. Yes.

Q. You are married? A. Yes.

Q. You live with your husband? A. Yes.

Q. At that address? A. Yes, sir.

Q. What is your husband's business? A. Painter.

Q. How long do you know Mr. and Mrs. Hauptmann? A. I know Mr. Hauptmann from July, 1932, and Mrs. Hauptmann from October, 1932.

Q. When you met Mr. Hauptmann was Mrs. Mrs. Hauptmann in Europe? A. Yes.

Q. Where did you meet Mr. Hauptmann? A. In Hunters Island.

Q. Were you one of the German group that went up there for their sports? A. Yes, sir.

Q. And their bathing? A. Uh huh.

Q. When did your husband meet him? A. Well, just about a week after that, not even that, maybe.

Q. In Hunters Island? A. Yes, sir.

Q. Now, was Mr. Hauptmann—did Mr. Hauptmann bring Mrs. Hauptmann to your house? A. Yes.

Q. When she returned from Germany? A. Uh, huh—first week.

Q. And after that did you two families visit each other? A. Yes.

Q. Now, in the different times that you were in Mr. Hauptmann's house did you observe how he treated his wife? A. Very nice.

Q. Did he treat her with affection and kindness? A. Yes.

Q. It has been testified to here that Mr. Hauptmann would sometimes drop in in the mornings and visit at your house on his way downtown. A. Yes.

Q. Is that correct? A. Uh huh.

Q. If you ever did, when did you meet Mr. Fisch, Isidor Fisch? A. Oh, I went to school yet, about ten, twelve years ago.

Q. And you met Mr. Fisch then when you were going to school? A. Uh-huh.

Q. Where did he live? A. In Leipsig, about half hour from my place.

Q. You knew him in Germany? A. Yes.

Q. Is Leipsig the head of the fur dressing— A. Uh-huh.

Q. —trade in Europe? A. Yop.

Q. And when did you meet Mr. Fisch after you came to this country for the first time? A. Oh, the first or second day, first day he was in this country he came over.

Q. Did you come to this country first? A. Yes.

Q. How long were you here when Fisch arrived? A. Not quite a year.

Q. Were you married in this country or on the other side? A. In this country.

Q. How long after you came to this country were you married? A. Three years ago—three years after.

Q. And you knew Fisch before you were married: is that correct? A. Uh-huh.

Q. Did your husband know him? A. Yes.

Q. In Leipsig? A. No.

Q. Did he know him in this country? A. Uh-huh.

Q. How long has your husband known Fisch? A. Well, my husband came over in this country and he was brought to Mr. Fisch right away, in 1926.

Q. He boarded with Fisch? A. Yes.

Q. In the same house? A. Yes.

Q. Who did they live with? A. With Henry Uhlig and Isidor Fisch and my husband.

Q. Henry Uhlig came to this country with Fisch, didn't he? A. No, he came before Fisch.

Q. Did anybody come with Fisch? A. Nope.

Q. Who? A. A friend of Isidor Fisch, I don't know, I don't recall his name now.

Q. But after Fisch came to this country you say your husband lived with him? A. Yes; after my husband came in this country.

Q. After your husband came to this country? A. Uh-huh.

Q. How long did your husband live as a roommate of Fisch's? A. Well, he came over '26 and we got married '28.

Q. Did you go down to the steamer to see Fisch off? A. Yeah; uh-huh.

Q. Do you know when he sailed? A. Well, I know exactly—that was on a Wednesday, December 6th.

Q. In what year? A. 1933.

Q. He never came back, did he? A. Uh-huh.

Q. Do you know any of his relatives? A. No.

Q. Would you know any of them from Leipsig if you saw them? A. Well, I seen the pictures. I would see them now, sure.

Q. You haven't seen any of them in the flesh, have you? A. No.

Q. You know they are here, though? A. Yes.

Q. Did you know any of them when you were a young schoolgirl in Leipsig? A. No.

Q. Did they live in Leipsig, as far as you know? A. (Nods head.)

Q. They did? A. Yes.

Q. Did Fisch live with them? A. Well, I don't know.

Q. Where did Fisch live when you knew him in Leipsig? A. I never was in his house. I think he lived with his father.

Q. Did he live in the same neighborhood? A. In my neighborhood?

Q. Yes. A. No.

Q. Was there anything at any time in Mr. Hauptmann's conduct toward you ungentlemanly or dishonorable? A. Certainly not.

Mr. Reilly: You may inquire.

Cross-Examination by Mr. Wilentz:

Q. Do you remember when Mr. Hauptmann was arrested? A. Yes, sir.

Q. September, 1934? A. H'm h'm.

Q. When was the first time before his arrest that he was at your house visiting? A. Monday.

Q. Monday before he was arrested? A. Yes.

Q. What day of the week was he arrested? A. Wednesday.

Q. Wednesday. So he was there two days before. A. I know that correct.

Q. In the morning? A. No, in the afternoon.

Q. Was your husband home? A. No.

Q. When was he there before that? A. Saturday night.

Q. Of course your husband was home then. A. Yes.

Q. Was Mrs. Hauptmann with him Saturday night? A. No.

Q. On Monday Mrs. Hauptmann wasn't with him, either, was she? A. No. He came from the broker's office to my house.

Q. Right from the broker's office to your house so that was the Monday before he was arrested and the Saturday night before he was arrested? A. Uh huh.

Q. Once he came from the broker's office and then he came on the Saturday night. Now, there were mornings he came, too, weren't there? A. Sure.

Q. And he used to have coffee at your home? A. Yes, I like my coffee.

Q. You like your coffee. Does Hauptmann like coffee, too? A. You said it.

Q. What is it, Madam? "You said it." A. Yes, I said it.

Q. You don't run a coffee shop, do you? A. No, but it might be a good business some day.

Q. I see. You mean if you had a lot of customers like Hauptmann? A. Sure.

Q. But you don't run a coffee shop? A. Uh-huh.

Q. You knew Isidor Fisch? A. Uh-huh.

Q. As you say, for all these years, Madam? A. Uh-huh.

Q. And having known him in Germany, when he came to this country, you permitted him to live with your family? A. Not with my family.

Q. I mean to board with you? A. No, he didn't board with my family.

Q. Didn't he stay at your house? A. No.

Q. Same building? A. Same building, yes.

Q. Oh, I see, and he was a friend of the family, wasn't he? A. Yes.

Q. Now, you knew him before you knew Hauptmann? A. Uh-huh.

Q. You met Hauptmann at Hunters Island? A. Yep.

Q. When you met Hauptmann at Hunters Island, you weren't with your husband, were you? A. No.

Q. When Hauptmann met you at Hunters Island he was not with his wife? A. No.

Q. And that was in the summer of 1932? A. Yep.

Q. And then Mr. Hauptmann came to your house afterwards and met your husband? A. Uh-huh.

Q. And while he was at your house he was introduced to Isidor Fisch, isn't that right? A. Yes. Well, it was, at the first time they met, at my house, they were introduced.

Q. So far as you know, Mrs. Henkel— A. Uh-huh.

Q. —the first time Hauptmann ever met Fisch was in your house, isn't that true? A. Well, but Mr. Fisch told me he met him before, but it was the first time they met in my house. I didn't know that before.

Q. Now, Madam, you never knew that? A. No.

Q. So far as you know, the first time Hauptmann met Fisch was in your house, is that right? A. Yes.

Q. And you were asked that question by the police? A. Uh-huh.

Q. And you told them that you introduced him, didn't you? A. Well, certainly, I didn't know it before, nobody told me.

Q. When you were asked by the police about Hauptmann and Fisch and when they got to know each other, didn't you tell them that you introduced

Fisch to Hauptmann? A. But they knew each other before that.

Q. Now, you please answer the question. Didn't you tell them that? A. I did it, because nobody told me before that they knew each other.

Q. But you did it, didn't you? A. Well, that is as much as I know.

Q. You introduced Fisch to Hauptmann in your house, did you not? A. Before they told me that they met.

Q. Well, when you introduced Fisch to Hauptmann in your house— A. Yes.

Q. —that did happen once, didn't it? A. Yes.

Q. You introduced him? A. Well, that was before they told me.

Q. And when you introduced him what happened? What did you say? "Mr. Hauptmann, meet Mr. Fisch" or "Isidor meet Richard" or what did you say? A. Oh, gosh, I can't remember that.

Q. You don't remember; but you do remember you introduced them? A. Well, I didn't know any better.

Q. And at that time, after that time you didn't know any better either, did you? A. Yes, I did.

Q. When? A. When Fisch told me.

Q. When? A. Oh, it was a long time ago. About— I don't know.

Q. Well, years ago? A. Yes.

Q. A couple of years ago? A. Yes.

Q. You knew that then when you were answering the police, didn't you? A. No, I didn't know it.

Q. You said years ago you found that out. A. I remembered it only later. Gee, we was so excited we didn't know—

Q. When did you remember it? A. Oh, a couple of months ago.

Q. You didn't remember when the police were

talking to you. A. Gee, I answered anything; I don't know what I said.

Q. Never mind the "Gee." You please answer the question. When you were being asked by the police, madam— A. Yes.

Q. —about Isidor Fisch and Richard Hauptmann, didn't you say to the police, "I introduced Fisch to Hauptmann." A. Well, sure, because I didn't remember everything so—

Q. Yes. That's in 1934, isn't it? A. Yes.

Q. Yes; after September, 1934. And you didn't attend Mr. Hauptmann's birthday party, did you? A. No.

Q. You didn't attend the party to Fisch at Hauptmann's house, did you? A. No, because he didn't want us to know that he had a farewell party.

Q. But you didn't. A. Because he didn't want everybody to know.

Q. You didn't attend those parties, did you? A. No.

Q. How many mornings a week did Mr. Hauptmann come to your home for coffee? A. Oh, once or twice.

Q. Once or twice a week. A. Uh-huh.

Q. How long did he stay when he came for coffee? A. Oh, about ten or twenty minutes.

Q. Ten or twenty minutes. A. Ten or fifteen minutes.

Q. Ten or fifteen minutes, once or twice a week? A. Uh-huh.

Q. What time in the morning would he come A. Well, he would come about nine or nine-fifteen, something like that.

Q. Did you play cards with him down at the shoemaker's shop in Yorkville? A. Once or twice.

Q. You and he? A. Uh-huh; everybody.

Q. Well, I am talking about the two of you. A. Oh, no.

Q. How about Mrs. Hauptmann? She wasn't there when you were playing cards with him? A. Oh, yes, she was too.

Q. Sometimes? A. Yes.

Q. And sometimes she wasn't, isn't that right? A. No.

Q. Did you go shopping with Mrs. Hauptmann on occasions sometimes? A. No, not that I remember.

Q. Well, you won't say you didn't, will you, Mrs. Henkel? A. Well, I don't remember; I don't think so.

Q. You met Mr. Hauptmann in the brokerage office too on some occasions? A. No, I think I was there once.

Q. Once? A. Uh-huh.

Q. When you went there once, the only person you knew there was Mr. Hauptmann? A. Oh, sure.

Q. And you went there to see him? A. Yes, make an appointment to play cards or go to Hunters Island.

Q. How far away from the broker's office is your home? A. How far?

Q. Yes. A. Well, takes me about a half an hour.

Q. Took you about a half hour? A. To ride.

Q. What is it? A. To ride.

Q. Will you tell us the name of the landlady in the house that you lived in the same time that Fisch lived in it. A. Selma Kohl.

Q. Kohl? A. K-o-h-l.

Q. Now, the Saturday night before his arrest you are sure that he was in your home? A. Yes.

Q. And Kloppenburg wasn't with him, was he? A. Kloppenburg? Sure he was.

Q. Hans Kloppenburg? A. Yes.

Q. Was he with him the third Saturday night? A. What do you mean, the third—

Q. The Saturday night before his arrest at your home. A. He lives at my house.

Q. Kloppenburg, was he there? A. Yes.

Q. He was there that night? A. Yes.

Q. What time of the night was it, Mrs. Henkel? A. What—that when—

Q. That Saturday night. A. That they went home or came?

Q. No, when they came. A. Well, gee, I can't remember that.

Q. That is all right if you can't remember that. But it was in the evening anyway? A. Yes.

Q. Did you play cards? A. Uh-huh.

Q. Who played cards? A. All the men. The girls were talking, playing cards, too.

Q. Who were the men? A. Mr. Kloppenberg, and Mr. Hauptmann, and my husband, and Mr. Blank.

Q. And what did the women do? A. Oh, we were playing cards, too, and talking.

Q. Who were the women? A. Mrs. Blank—

Q. Well, if you don't remember it is all right. A. And myself. I don't know if there was anybody else or not.

Q. But Mrs. Hauptmann wasn't there? A. No.

Q. What time did the men leave after the card party? A. Well, it was after midnight.

Q. After midnight? A. (Nods head.)

Q. One o'clock would you say? A. Maybe a little later than that.

Q. Mr. Hauptmann played cards at your home quite frequently, didn't he? A. Uh-huh.

Q. Sometimes he stayed out, like other men, I suppose, very late when he played cards there? A. Not very late I wouldn't say.

Q. I see. A. About midnight or something like that.

Q. How far away from the Hauptmann home did you live? A. Well, it took us up there about an hour, three-quarters of an hour, an hour.

Q. It took almost an hour? A. (Nods head.)

Q. So when Mr. Hauptmann came down to your house for coffee in the morning it took him about an hour to get there? A. I don't know how long it takes with the car to come down.

Q. I mean by subway.

Q. By subway it takes an hour? A. Three-quarters of an hour about.

Q. He brought you a present, one of the Christmas presents, didn't he, Mrs. Henkel? A. Uh-huh. Got some nice slip I got, I mean from Mrs. Hauptmann, and some, oh—

Q. You got a nice slip? A. Uh-huh.

Q. From him? A. From Mrs. Hauptmann.

Q. From Mrs. Hauptmann? A. (Nods head.)

Q. Did she bring you the present or he? A. Oh, Mrs. Hauptmann brought the present.

Q. Who delivered it to you, Mr. Hauptmann, didn't he? A. Both of them.

Q. Both. All right.

Mr. Wilentz: Thank you, that is all, Mrs. Henkel.

Re-Direct Examination by Mr. Reilly:

Q. Why didn't they want you at the Fisch farewell party?

Mr. Wilentz: I object to that. She doesn't know.

The Witness: I know why—

Mr.Wilentz: Just one minute now.

Mr. Reilly: He brought it out on cross-examination.

Mr. Wilentz: I asked her whether she was at the party and she said she wasn't.

Mr. Reilly: She has a right to say why.

Mr. Wilentz: The question is why they didn't want her at the party.

The Witness: Mr. Fisch—

Mr. Wilentz: Just one minute—which calls for a conclusion in the mind of someone else.

By Mr. Reilly:

Q. I will ask this question: Did Fisch ever tell you why you weren't invited? A. Not Fisch, because he didn't come up the house any more.

Q. When did he stop coming to the house? A. Well, I lived there in my house about a year. He came there once or twice, not more than that. He came there about two weeks before he sailed for Germany.

Q. What business was he in? A. Fur business.

Q. Had he borrowed some money from your mother?

Mr. Wilentz: I object.

A. From my father.

Q. From your father? A. Uh-huh.

Q. How much? A. I don't know how much. I guess was—

Q. Did he borrow any money from your mother? A. Yes, he tried to.

Mr. Reilly: That is all.

Mr. Wilentz: Is that all, Mr.—

Mr. Reilly: Yes.

Re-Cross Examination by Mr. Wilentz:

Q. So that Mr. Fisch did open— Withdraw it. So Mr. Fisch did borrow some money from your parents. A. Yes.

Q. And they loaned it to him. A. My father did.

Q. Yes. It is a fact, however, is it not, that in July or August, 1932, you introduced Hauptmann to Fisch? Answer Yes or No. A. Yes, before they, before Fisch told me about it.

Q. Yes is your answer, is it? Answer it Yes or No, please. A. Well, I introduced them.

Q. Yes. A. You can hardly call that an introduction.

Q. Yes. And when you introduced them, they both said Hello to each other and shook hands, didn't they? A. Well, I suppose so.

Mr. Wilentz: Yes. That is all.

Re-Direct Examination by Mr. Reilly:

Q. And did Fisch tell you afterwards that he had met Hauptmann long before? A. Yes.

Q. What did he say about that? A. Well, I don't know exactly when it was when he told me, but they were always kidding my husband and myself and he said that he kidded us about that. If they forgot about it, I don't know how he said it, or something like that.

Q. Had Fisch borrowed some money from your mother-in-law? A. Yes, sure.

Q. How much? A. Oh, over $4,000.
Q. And he sailed without paying it back, didn't he? A. Sure.

Mr. Wilentz: Is that all?

Mr. Reilly: Yes.

Re-Cross Examination by Mr. Wilentz:

Q. He lived in a little room in your house, didn't he? A. Yes.
Q. What kind of a room was it? A. Oh, a little furnished room.
Q. A little furnished room? A. (Nods head.)
Q. He owned no radio, did he? A. He was in my house all the time, he almost lived there.
Q. That is right, but he had no radio in there, did he? A. No.
Q. He owned no automobile, did he? A. Not that I saw.
Q. He never drove an automobile so far as you know, did he? A. No.
Q. And you know that he borrowed money? A. (Nods head.)
Q. From your relatives? A. Yes.
Q. And they loaned it to him, didn't they? A. Yes.
Q. Yes. A. He talked like that. I don't know. they trusted him.
Q. All right. You trusted him. Now, Mr. Fisch finally told you, not the night you introduced him to Hauptmann, but later— A. Yes.
Q. —he told you later that he had already met Hauptmann? A. Uh-huh. I don't know when he told me but it was some time later.
Q. How long? Would you say within a year? I don't want to limit you to a day or a week or a

month; I will give you a year. A. I couldn't say that either.

Q. Within two years? A. Well, it was some time after, after '32.

Q. Yes; and before 1934? A. Yes, sure; before he sailed in August. I don't know when.

Q. Some time between the time you introduced him and the time he sailed Fisch told you? A. Yes.

Q. That he knew Hauptmann? A. Some time between that.

Q. But when you told the police about it you didn't tell them anything about that, did you? A. Because I couldn't remember everything. Gee, I can remember now more things than I told up there.

Q. Certainly. But you remembered that you introduced them when you were talking to the police, didn't you? A. Well, I had to.

Q. Certainly. A. If people come to my house I had to introduce them.

Q. And they asked you, didn't they? A. Yes.

Q. They asked you "When was it you introduced Fisch to Hauptmann?" And you said, "July or August"? A. Yes.

Q. Isn't that right? A. Yes.

Q. And you said absolutely nothing about the other, did you, at that time? A. Because I didn't remember; I didn't think about it.

Q. I don't care the reason, "because." You didn't do it, did you? A. No, because I didn't know then.

Q. No. Today you have a different story, haven't you? A. Yes, because I remember; I remember many more things than that.

Q. Not because you are a very good friend of Mr. Hauptmann? A. No.

Q. That wouldn't be the reason? A. No.

Q. Not because you had coffee with him two or three mornings a week? A. Oh, my God, no.

Q. No, not because he visited you the Saturday

night before he was arrested without his wife, it wouldn't be that reason, would it? A. He didn't visit me.

Q. Not because he visited you the Monday before he was arrested at your home while your husband was away, that wouldn't be the reason. A. Of course not.

Q. You have changed your story, though, haven't you? A. Because I remember now, I remember many more things.

Q. Who told you to change it? A. Nobody did.

Q. Who did you talk this case over with about this particular introduction? A. Oh, nobody—with my husband.

Q. With nobody? A. I talked it over with my husband. I asked him if he remembers too.

Q. Remembers what? When you introduced him? A. No, when Fisch told me that he knew him before. That's not the only—

Q. You knew, did you not, and you have known right along, Mrs. Henkel, that it has been an important matter as to when Fisch was introduced to Hauptmann? A. I didn't know it was important.

Q. You didn't know it. You have been running around preparing this case for Mr. Hauptmann, haven't you? A. Not preparing.

Q. Well, you have been around working for the case, haven't you? A. What do you mean working?

Q. Well, you have been going around to talk to witnesses and to the lawyers' offices and all of that sort of thing for months, haven't you? A. I did not.

Q. You did not. You were questioned twice by the police, were you not, about your introduction and the time of your introduction, two times? A. I don't know what time.

Q. And on each occasion you told them the same story, did you not, that it was at your home, that it was in July or August of 1932, and that you were the

one that introduced them. A. Well, I know that they asked me about it, I don't know how many times.

Q. And that is what you told them then. A. Well, I guess so.

Mr. Wilentz: That is all.

Re-Direct Examination by Mr. Reilly:

Q. Was it in July or August that Hauptmann and Fisch met for the first time in your house? A. Yes, I think it was July.

Q. That is the first time they came together in your house? A. That's right.

Q. Now, nobody at the defense table here or anybody connected with the defense ever asked you to change your story, did they? A. Nobody did.

Q. Nor did anybody else ever ask you to change your story, did they? A. No, I just went over these things and I remembered many things that I didn't know then.

Q. When you were asked these questions in the Bronx, who asked you the questions? A. Oh, I don't remember who.

Q. Were there many men around? A. Yes.

Q. Were you the only woman in the room? A. Uh huh.

Q. And you say you were nervous? A. Sure, God, I never went through a thing like that. Never experienced that.

Re-Cross Examination by Mr. Wilentz:

Q. Are you more nervous today than then? A. No. I am not so nervous any more; I got used to it.

Q. Not nervous. The witnesses for Mr. Hauptmann would meet at your house? A. Would what?

Q. Would meet at your house, the witnesses in this case. A. They did not.

Q. Didn't you have the witnesses in this case meet at your home during months preceding this case? A. Just Mrs. Hauptmann once or twice.

Q. And the witnesses. A. Who do you mean, Mr. Kloppenburg lives at my house, I see him.

Q. How about the Mullers, did they come there for this case? A. The Mullers, no.

Q. Aren't you friendly with the Mullers? A. Yes, I go up to see them.

Q. How about Mr. Uhlig? A. Oh, Mr. Uhlig is an old friend of ours.

Q. Certainly. He was there too? A. Uh huh.

Q. That is all.

(Witness excused.)

Mr. Reilly: Now, your Honor please, as I am about to go into expert testimony, may we have a five-minute recess?

The Court: Take a recess for five minutes now.

(At 3:26 a short recess was taken.)

(After a short recess the jury was polled and all jurors answered present.)

(3:40 P. M.)

Mr. Pope: Dr. Erastus Mead Hudson.

ERASTUS MEAD HUDSON, sworn as a witness on behalf of the defendant.

Direct Examination by Mr. Pope:

Q. Dr. Hudson, where do you live? A. I live in New York, sir, 30 East 76th Street, New York.

Q. And I think I will stand over here, perhaps we can hear a little better.

Mr. Wilentz: Do you want to sit here?

Mr. Pope: No, that is all right.

Q. And how long have you resided in New York City, Doctor? A. Since 1921.

Q. And you graduated from a medical institute, sir? A. Yes, sir, the College of Physicians and Surgeons in New York, in 1917.

Q. And you have been engaged in active practice since that time? A. Yes, in the Navy and then in civil practice.

Q. Now, doctor, have you had any experience in fingerprint chemistry? A. Yes. I became interested in fingerprints in 1917, when I was in medical school; and then later on, in the Navy it is the duty of a medical officer in the Navy to take all fingerprints, supervise the taking of fingerprints.

Q. Doctor, could I ask you to speak a little louder, if you possibly can, so his Honor and all the jurors can hear you? A. Yes, sir.

Q. There is a little commotion in the room. Proceed. You started to tell us about your experience. A. I just said in the Navy it is one of the duties of a medical officer to supervise the taking of fingerprints, and that was during the war. I remember one time we were in Liverpool and I had the opportunity of seeing some of the men in Scotland Yard work on fingerprints. Then after the war I started civil practice in New York, and there I met Frederick Kuhn, who at that time had done a great deal of work on

fingerprints with the Police Department; and Mr. J. H. Koehler of Washington, the fingerprint expert for the Navy Department; and I had the opportunity of visiting the laboratory of Dr. DeForest. He has one of the largest laboratories on fingerprints, I think, in this country, and in that laboratory were many books on the chemistry of fingerprints, which interested me very much, and had to do with the chemistry of detecting fingerprints. Ordinarily, in the revelation of latent fingerprints, which are fingerprints which are ordinarily invisible, the police generally use a powder method. The powder is sticking to a little waxy secretion in the finger, and making that secretion visible. But there are chemical methods which will change that secretion chemically and those methods I was particularly interested in.

Q. And how long have you continued your study and operation in fingerprint chemistry, Doctor? A. Why, I think almost continuously from back in 1920 or '21, up to the present date.

Q. And have you developed, as a result of your studies, any process yourself? A. Well, at that time I remember that—

Q. I don't know whether it is new or not. A. Yes. At that time I remember I used silver nitrate to get fingerprints, back in 1919 or '20, and then when I came to New York and read in the books that Dr. DeForest had, I read that a man in France had used that method 15 or 20 years earlier, exactly the same process.

Q. So that it was not a new process? A. No, it was not a new process.

Q. Now, will you explain that process to me? A. Well, the silver nitrate combines with the sodium chloride or salt that is in the fingerprint secretion and that changes the silver nitrate into silver chloride. Silver chloride is sensitive to light. So that in a fingerprint, wherever the deposit of chloride, that is,

sodium chloride or salt, in the original fingerprint, wherever that is converted into silver chloride by the silver nitrate when exposed to sunlight, those areas will darken and in that way you bring out the detail of the fingerprint.

Q. And may that also be brought out by artificial light? A. Sunlight or ultra violet light has practically the same effect.

Q. And which is the best and the quickest? A. Sunlight is the best.

Q. Now, Doctor, when did you first become interested in the Lindbergh case? A. Well, I remember, I think it was in the early part of March, about the 3rd of March that Justice Minturn—

Mr. Wilentz: Just a minute now. I submit the question has been answered, about the 3rd of March.

The Court: Well, about the 3rd of March, but I suppose that Mr. Pope is qualifying this gentleman as an expert.

Mr. Wilentz: Well, we are not objecting to that.

The Court: No. Do you concede him an expert?

Mr. Wilentz: We do not object to it.

The Court: Perhaps that will somewhat limit Mr. Pope's examination.

Mr. Pope: Well, I don't see any objection. The doctor simply stated that he became interested in the case through the solicitation of Mr. Justice Minturn.

Mr. Wilentz: That is not material I submit, if your Honor please.

The Court: Well, I don't think that I will take the time now to strike that out.

Mr. Wilentz: I didn't want to strike it out. I tried to stop him, but as long as Mr. Pope has told us instead of the witness, I won't object to it.

The Court: It seems to be unobjectionable. You may proceed.

Mr. Pope: Well, it doesn't make any difference.

The Witness: Well, I can—

By Mr. Pope:

Q. Will you tell the jury, Doctor, what you did as a result of your interest in the case, where you went and what you saw and what you did. A. Well, do you want to skip that little time there, is that the idea, to skip that?

Q. I don't want to skip any time, Doctor. I want to know what you did from the first time you became interested in the case— And do I understand that was about the middle of March? A. That was about the 3rd of March, sir.

Q. About the 3rd of March, 19— A. Yes.

Q. Nineteen hundred and what? A. '32.

Q. A day or two after the kidnapping? A. A day or two after the kidnapping, yes.

Q. As a result of that what did you do at that time? A. Well, at that time I remember I was asked

whether or not fingerprints could be obtained from wood, and I said they could be.

Mr. Wilentz: Just a minute, please. I object to what he said.

Mr. Pope: I consent that be stricken out, the conversation, whatever it was.

The Court: It will be stricken out.

By Mr. Pope:

Q. You may tell us. A. Then I think we will go to the 13th of March.

Q. Yes. A. Major Schoeffler of the State Police phoned me and asked me if I would come down to Hopewell and see if it would be possible to get some fingerprints of the Lindbergh child from the little books and toys that it played with; so I went down there and I remember that I demonstrated at that time the silver nitrate process on wood, and then applied the silver nitrate process to some of the little books and things, and we found some of the fingerprints of the baby on those books. The toys and various articles that we were interested in were in a room upstairs where there was danger of the objects being contaminated with fingerprints of the adults, so that the next day when I went down, Trooper Kelly, who was in charge of fingerprints had been assigned to a room downstairs; I think it was in the laundry—and all the different objects and things that we were interested in were down there.

Q. Doctor, would it be possible for you to talk just a little louder? A. I don't think so. I have had a cold and it is—

Q. Well, do the best you can. A. Yes, sir.

Q. Perhaps if you will talk a little slower, then

that might help. A. So that day, that day I think was a Monday, we spent the morning in developing fingerprints on these little blocks, toys and various things, and in the afternoon we started in on one section of the ladder. I had a little glass atomizer that gives a very fine spray and we—

Q. Do you recall now which section of the ladder it was? A. No, sir; I have no idea—

Q. All right; go ahead. A. —which section it was.

Q. Go ahead. A. I remember at that time it was a cloudy day and it was not a good day to bring out these prints with sunlight; we had a small ultra violet light which was not very powerful, so I put some of this spray on the ladder and showed Trooper Kelly how to spray the ladder. There is just a little trick to sort of keep a uniform film.

Q. Now, at this point may I ask you to look at State's Exhibit No. 211—

Mr. Pope: Am I right?

Mr. Wilentz: No. 211.

By Mr. Pope:

Q. No. 211—and will you tell us if that is the ladder that you saw and that you used in the demonstration that you are speaking about? A. Well, it resembles it, sir. It is quite darker now than it was at that time. I mean it is not exactly the same but the general characteristics are the same, I would say. Shall I go ahead?

Q. Go ahead. Tell us what you did. A. So, the next day after that, I left that afternoon, went back to New York, and that evening Trooper Kelly continued to spray part of the ladder, and the next morning when I went down I think Sergeant Kubler was

on duty. So we showed him how to spray the thing; there is just a little trick to it. So between Trooper Kelly and Sergeant Kubler and myself we covered the entire ladder with silver nitrate. And that day was a nice, bright, sunshiny day, so we took the ladder outside and put it in the sunlight, and the fingerprints began to come out all over the ladder. I remember an incident at that time. One of the mail carriers came around and remarked about the peculiar red color that the ladder had, and inquire if it was shingle stain, and we said nothing at that time. But it was a bright, very bright, sunshiny day.

Q. Yes. And how many prints were developed, doctor, altogether. A. Well, that would be difficult to say. There were a great many prints. At one time I think I estimated that there were probably at least five hundred fingerprints and fingerprint fragments on that ladder.

Q. That is, five hundred fingerprints and fingerprint smudges? A. No, sir, not smudges.

Q. Is that it? A. The smudge is the complete print. I mean, the English use the term smudge to describe a complete, very perfect fingerprint.

Q. There were some five hundred perfect— A. But fingerprints and fragments of fingerprints. Wherever you touch a chair, you will get little fragments, little lines of the ridges that are on your finger; and some can be identified when there are only two or three lines, if they contain pores, which is a means of identification, and other prints, you have to have a good deal of detail to identify the prints.

Q. Well, how many of these fingerprints that were brought out on the ladder were fingerprints such as would be considered of value? A. Well, I would consider more than 500 of value. I mean I would consider every line, even though there were just two or three lines, it would be possible from the character

of that process, because it does show pores, to identify even a very small skin fragment.

Q. And were there photographs taken of the ladder? A. I was told that there were. I advised that the ladder be completely photographed, because in the event that some print was identified it would be difficult to say exactly where that print was on the original ladder, because the photographs are very small things, only two by three inches, and so I advised photographing the entire ladder with a fingerprint camera, so that later on those photographs could be pieced together and matched according to the grain of wood and according to the impressions.

Q. And showing the exact position on the ladder where the print was? A. Yes.

Q. And approximately how many square inches are there in the ladder, Doctor? A. I think there are more than 5,000 square inches, surface area.

Q. Now, did you see the fingerprint photographs that were taken from the ladder? A. No, sir, I did not see any of the photographs.

Q. They were not shown to you? A. No.

Q. How long altogether was Mr. Kelly and Mr. Kubler, was it— A. Kubler. I think it is K-u-e-b-l-e-r.

Q. And yourself working on the ladder, how many days? A. I think it took three days, perhaps four, but not more than that, three or four days at the utmost.

Q. And were you present when the processing was finished, Doctor? A. Yes.

Q. And what did you observe at that time? A. Well, I have already stated that there were a great many fingerprints and fragments of fingerprints on the ladder.

Q. Now, of the quantity of fingerprints that were brought out and developed, how many of them were recognized, identified, do you know? A. No, sir, I have no idea. I never saw the photographs at all.

Q. Well, did you see the prints on the ladder? A. Yes, I saw many prints on the ladder.

Q. Approximately what percentage of the number of prints that were brought out by the process would you consider prints that could be identified if they could find the counter part of the print? A. Well, that is a very hard question to say without photographic enlargement and very minute study.

Q. I see. A. The idea is to preserve that record and then study it very minutely later on.

Q. Now, Doctor, referring to this particular ladder here and directing your attention to that particular type and character of wood, if there is any difference in woods, in that respect, how long will fingerprint marks remain in that kind of wood so that they may be developed and brought out later by the process that you have been telling us about? A. Well, the ability of the silver nitrate process to reveal fingerprints depends on the presence of little salt crystals.

Q. I am sorry that we cannot quite hear you, Doctor. Depends upon what? A. The ability of the silver nitrate process to bring out fingerprints depends on the little salt crystals which are arranged on the wood or in the wood according to the pattern left by the fingers, and under ordinary circumstances those crystals will remain intact from six months to a year, sometimes even longer than that. Under other conditions, like in a very humid room, like a room that was filled with steam, that steam would soak into the wood, those little salt crystals would dissolve out so that you would have a uniform sheet and you would have no fingerprints at all.

Q. That is, steam would cause that. A. Escaping steam would cause that, steam of that sort, but in a dry house or in a room like this fingerprints of that character on bare wood should be obtainable at least six months after found.

Q. How about a ladder kept in a garage, a ladder that had been driven around the country in an automobile and exposed to the atmosphere? What effect, if any, would that have? A. The wood of the original ladder was very clean. It was not the way it is now. It was very clean and the nails were bright and shiny. There was no rust on the nails at all, and from the appearance of it I would say that you could expect fingerprints to be obtained at least six months and perhaps a year after.

Q. Now, Doctor, assuming that these fingerprints had been on there and had gone into the fibres of the wood—I suppose that is what they do, don't they? A. Yes, the little salt secretion soaks right into the wood.

Q. Soaks into the fibre of the wood. Would it be possible to sandpaper the surface of the rail, clean it, sandpaper it and still bring out the fingerprints? A. Yes. Trooper Kelly did a great deal of experimenting along those lines. He told me he could sandpaper the print off three times, I think, and bring it out again with the silver nitrate, showing the depth to which it penetrated.

Q. Now at that point just let me depart from the ladder a minute and ask you, did you also demonstrate the method of using silver nitrate on paper? A. Yes, sir.

Q. And other substances? A. Yes, sir.

Q. And did you examine any of the ransom notes? A. No, sir.

Q. None of those were submitted to you? A. No.

Q. To be processed? A. No, sir.

Q. By you? And you do not know whether they were processed by the silver nitrate process or not? A. No, sir, I have no idea.

Q. Now what particular advantage has the silver nitrate process in developing prints on paper, over the ordinary ox blood or black powder process.

A. Well, after a print has been on paper for a few hours, a secretion soaks into the paper, and then when powder is dusted on, there is no sticky material left to pick up the powder and reveal the design. So that, perhaps, after a few hours, says twenty-four to forty-eight hours, you have to use a chemical method to get fingerprints on the average type of paper.

Q. How long will those fingerprints remain on paper so that it is possible to develop a valuable print? How long after it has been made? A. Why, I have obtained them over a year old, and I think Mr. Mitchell has obtained them over two and a half years' old on paper.

Q. How about fingerprints on a painted surface, such as the top rail of a window? A. On a painted surface, a fingerprint should remain so that it could be developed with powder at least two or three months. The fresh fingerprint, the fingerprint that has just been put on, is very moist and sticky, so that the first brushing has to be done quite carefully. Then if the print is two or three hours old, that secretion becomes harder, and you have to brush a little harder to bring it out. After two or three months the secretion becomes very hard, and then you have to put on very hard pressure in order to reveal that fingerprint.

Q. Well, now, Doctor, if I place my fingers on this rail just naturally and ordinarily and then take them off, if that is wiped off with a cloth, would that remove or destroy the fingerprint impression? A. It depends how long that fingerprint impression has been on there.

Q. Well, say within an hour afterwards. A. Within an hour it would remove it.

Q. It could be easily wiped off with a cloth? A. Yes, sir.

Q. From what kind of a surface do fingerprints make the best impression or the best—show the best visibility? A. Why, I don't think that there is much choice. I mean you have different kinds of substances; glass is a very good one; porcelain ware is very good; another smooth, hard surface; varnished surface; painted surface; enameled surface.

Q. Now, Doctor, assuming that this particular ladder that we have here had been made, built and put together by the defendant in this case, handling it as such process would naturally be handled, for how long a time would his fingerprints remain upon portions of that ladder handled by him which could be developed, brought out and identified? A. Well, if after having made the ladder, the ladder has been in a place where—I mean in the ordinary kind of a place, a house or barn or garage, something of that sort, fingerprints could be developed at least six months after that, and if the conditions were very good as to dryness you could go back a year or a year and a half, or even two years, I am sure.

Q. And those fingerprints might be obtained, I suppose, from any portion of the ladder? A. Yes, any part that was touched.

Q. The inside of the rung? A. Any part that had a smooth finish on would show the detail.

Q. And if, after obtaining several hundred fingerprints from this ladder by the process that you have just mentioned, you were unable to identify the fingerprints of the defendant in this case, what would that indicate to a fingerprint man?

Mr. Wilentz: Just a moment, if your Honor, please. We object to that as calling for a conclusion of this witness.

Mr. Pope: Calling for the judgment of a fingerprint man.

(The pending question was read.)

Mr. Wilentz: If your Honor, please, that is based upon a hypothetical—that is a hypothetical question, if your Honor, please. There is no basis for it; it calls for a conclusion of this person's mind.

Mr. Pope: The evidence in this case is that—the evidence in this case is that although a number of fingerprints were developed and photographed, and the photographs are in evidence here, that none of them were identified as the fingerprints of the defendant in this case.

Mr. Wilentz: That is right.

Mr. Pope: That is the evidence.

Mr. Wilentz: Right.

Mr. Pope: So this hypothetical question addressed to the fingerprint chemist is based upon the evidence in the case.

The Court: What evidence is there as to there being any opportunity to identify these fingerprints that were found on the ladder with the fingerprints of the defendant?

Mr. Pope: The police had the defendant's fingerprints.

The Court: When?

Mr. Pope: After he was arrested.

The Court: And that was in September of 1934?

Mr. Pope: Correct.

The Court: And the ladder, if used at all, was used in '32, March, '32, is not that so?

Mr. Pope: That is correct.

The Court: Well, to have your hypothetical question answered, and the answer of any value, I would suggest that you incorporate those facts in your question.

Mr. Pope: I will do that.

By Mr. Pope:

Q. Now, assuming, Doctor, that this ladder had been built prior to March the 1st, 1932, that early in the month of March, at the time you testified that you and Trooper Kelly and Trooper Kubler processed this ladder by the nitrate of silver process, discovered a number of fingerprints which were developed by the nitrate process, those fingerprints were photographed by the State Police, the photographs kept by the State Police, still in their possession and produced in court today. The testimony is that a number of those fingerprints were identified, and that among the fingerprints taken from the ladder there was not found the fingerprints of this defendant, who was arrested in September of 1934. What would that indicate to you, Doctor?

Mr. Wilentz: I object to the question, if your Honor, please, for the reason it does not indicate that it does not take into consideration

what we consider the probability and the fact, that when this defendant handled this ladder he handled it with gloves; it does not take in the possibility in the hypothetical question, it does not take in the probability, that after being constructed an effort was made to obliterate such prints as there were; and for those reasons, if your Honor, please, I take it that this question, this hypothetical question, is not based upon the fact. In other words, this witness does not know, and this question does not contain the fact.

The Court: Well, the principal factor that is not incorporated in the question seems to be the question of whether or not the man who built the ladder wore gloves.

Mr. Wilentz: That is right.

The Court: Or that the man who handled the ladder wore gloves. Now I suppose that should be incorporated in your question.

Mr. Wilentz: That is right.

Mr. Pope: Well, I didn't incorporate that in the question, your Honor, because there isn't a particle of evidence, not one scintilla of evidence in this case, that the man who built the ladder, or that the man who handled the ladder, or that the man who used the ladder, used gloves.

The Court: Well, you see—

Mr. Pope: That is merely a supposition which the Attorney General would like to have

me incorporate into a question which is not based upon any evidence in the case.

The Court: I know, but I suppose that you would like to have the expert's notion as to what if any effect it would have if the man who handled the ladder wore gloves. Aren't you interested in that?

Mr. Pope: That wouldn't take an expert, to tell us that, your Honor.

The Court: Oh, well, I am no expert. I don't know about that.

Mr. Pope: That may be good cross-examination.

The Court: But that is a possibility that will arise in the minds of anybody.

Mr. Pope: Surely. That may be very good cross-examination.

Mr. Wilentz: No.

The Court: Well, if you persist in asking your question with that factor absent, why you may ask it and get an answer to it, and then the Attorney General may examine upon that factor when he comes to cross-examine the witness.

Mr. Wilentz: I just want to add further, if your Honor, please, to my objection, that there isn't one scintilla of evidence in this case that he didn't wear gloves.

The Court: That he didn't?

Mr. Wilentz: That is right.

The Court: I know there isn't.

Mr. Pope: You don't have to prove a negative.

The Court: I think the thing of value would be to get from this expert his notion about the effect of wearing or not wearing gloves.

Mr. Wilentz: That is right.

The Court: Now, that is perfectly understood by everybody, isn't it?

Mr. Pope: Yes.

The Court: Yes. So that if you want to examine this expert in a fashion to be of value, some of you ought to introduce that factor and get the judgment of the expert upon it.

You may proceed.

By Mr. Pope:

Q. Do you want the question read, Doctor. A. May I simplify the whole thing? I think I can.

Q. Yes. I think you remember it. A. Under ordinary conditions, if a man makes a ladder and makes the ladder with his bare hands and the ladder is such as this ladder, that kind of wood, with that finish, and that ladder is kept in conditions such as would be in a house, or this room, or a garage, for a period of six months, the silver nitrate process would undoubtedly reveal the fingerprints of the man that made the ladder. If he made the ladder

prior to a period of six months and had the ladder, we will say, around his house, and he moved it from one place to another place in those six months, the silver nitrate process would reveal the fingerprints where he moved the ladder from one place to another.

Now, if when the man made the ladder he wore gloves, naturally he would leave no fingerprint impressions upon the ladder. If he wore gloves every time he took the ladder and moved it from one part of his house to another part of his house there would be no fingerprints on the ladder.

But you have a case there where is it reasonable to suppose—

Mr. Wilentz: No. Now just a moment, I don't want any argument about it.

Mr. Pope: No, there is no argument.

Mr. Wilentz: You have been giving us your opinion.

Mr. Pope: I think the Doctor has a right to express his opinion.

Mr. Wilentz: Now, just one minute. You are here to testify, not to argue.

The Court: The Attorney General is objecting to the phrase of the doctor: "Is it reasonable to suppose." I think that, perhaps, should be eliminated.

Q. All right. Supposing we use the term "reasonable probabilities" instead of "reasonable to suppose," Doctor.

Mr. Pope: If your Honor, please, that I object to as to what a man might have done. He is asked the hypothetical question and he has answered it. He has told us about without gloves and with gloves and he don't want a zealous witness. We want a witness. He has given his answer to the hypothetical question. It is answered and I think he has completed it.

By the Court:

Q. Have you completed your answer to the question, Doctor? A. Well, to a certain extent. You see, I think it is very difficult to make myself plain or clear. The question was asked if the man made the ladder and had the ladder around his house, I mean the original question was framed in some such language, if the man made the ladder and had this ladder around his house and moved it from one place to another, would silver nitrate bring out fingerprints that may have been on that ladder.

Q. And you have answered that it would unless he had used gloves? A. Unless he wore gloves for the whole period of time, that is, every time he made it and every time he touched it he put on gloves.

The Court: Now that seems to answer the question, does it not, Mr. Pope? Now you may put another question.

By Mr. Pope:

Q. Now would the handling of the material itself in its ordinary state and before it was planed, sawed, cut or designed into the designs that you see it in now—and I will incorporate in that question, if he handled it with his bare hands and without gloves—would his fingerprints be on the wood and would

they be readily obtained after a period of six months to a year?

Mr. Wilentz: I object to it unless the atmospheric conditions, the general conditions surrounding are incorporated into the hypothetical question and there isn't a scintilla of evidence—

Mr. Pope: Under all the conditions we have been talking about, Doctor.

Mr. Wilentz: Never mind all the conditions, Doctor, please, until this question is passed upon. There isn't any evidence in this case as to the atmospheric conditions, whether the man wore gloves or whether he didn't, and he cannot presuppose or presume about atmospheric conditions and he hasn't done it in contemplating his answer.

The Court: Well, of course, in asking a hypothetical question, the examiner is not supposed to comprehend in the question every conceivable factor that anybody may imagine. He is entitled to put his question and have it answered if it fairly comprehends the factors as they reasonably appear in the case.

Now, let us see if there is any fault with this question. Let the stenographer read the question.

The Reporter: "Question: Now, with the handling of the material itself in its ordinary state and before it was planed, sawed, cut or designed into the designs that you see it in now, and I will incorporate in that question, if he handled it with his bare hands and without

gloves, would his fingerprints be on the wood, and would they be readily obtained after a period of six months or a year?"

Mr. Wilentz: He has already answered that question. He said in the building of the ladder or in the handling of the ladder.

The Court: I will allow that question to be answered if the latter part of it contains the phrase "under ordinary conditions."

Q. —under ordinary conditions?

The Court: He may answer the question.

A. Under ordinary conditions the fingerprints would be on the finished product, would be there and could be revealed there at least six months later by silver nitrate.

Q. Now, Doctor, during your examination and your work out there, did you have every particle of this ladder under your personal examination? A. When I was in Hopewell I was there I think the 13th, 14th and 15th, and, perhaps, the 16th of March. At that time the three sections of the ladder were down in this little laundry, and there were, I think, one or two dowel pins with it, also a piece that had been broken off from one of the sections and—

Q. A piece of a dowel pin or a piece of the ladder? A. A piece of the ladder itself.

Q. A piece of the ladder itself. A. Now, whether there were any more parts that were found later I don't know, but I know at that time and shortly after that time I examined the entire ladder.

Q. I show you State's Exhibit Number—

Mr. Pope: Will somebody help me with the number of this?

Mr. Wilentz: 226.

By Mr. Pope:

Q. 226, which is said to be a piece of board, which was taken out of the attic of the Hauptmann home. Was that piece of board processed by the nitrate of silver process to obtain fingerprints while you were over there? A. No, sir.

Mr. Wilentz: We didn't have that until—

Mr. Pope: All right; he says it wasn't.

Mr. Wilentz: Well, I think the evidence shows that this was taken out of—

Mr. Pope: He says it wasn't.

Mr. Wilentz: Just a minute, please. I think the evidence shows that this piece wasn't taken out of the Hauptmann home until here in 1934.

Mr. Pope: All right; that's my mistake, Mr. Attorney General.

Mr. Wilentz: Well, I was trying to help you with it.

Mr. Pope: Thank you.

By Mr. Pope:

Q. During your examination—first off—strike

that out. I want to ask you if there was an ordinary beer stein in the nursery and that had been handled by a person with bare hands, would fingerprints be left upon the beer stein so that they could be developed within a reasonable time?

Mr. Wilentz: I object to the question, if your Honor, please. There is no evidence that anybody handled a beer stein and it has nothing to do with this case.

Mr. Pope: Well, it is purely hypothetical.

The Court: I don't recall that there is any evidence that anybody handled a beer stein. The beer stein came into the case very late.

Mr. Pope: It was in the window at the time of the kidnaping.

The Court: And nobody—

Mr. Wilentz: It was in no window at all.

The Court: Nobody ever suggested that anybody ever touched this beer stein.
Now, what is your present question?

Mr. Pope: My present question is: If that beer stein had been handled that night and four or five hours afterwards it had been dusted or processed, would the beer stein show up fingerprints?

The Court: Do you object to that, Mr. Attorney General?

Mr. Wilentz: Yes, sir, if your Honor, please, I object to it.

The Court: I will overrule the objection. Answer the question.

The Witness: The question as I understand it is if this stein had been handled with the bare hands—

Q. Yes. A. —would the fingerprints have been left on it which could have been developed a few hours later?

Q. Yes. A. Is that the question?

Q. Yes. A. The answer would be yes.

Q. Within five hours. A. (No answer.)

Q. Doctor, I show you some sheets on which there have been some diagrams drawn and a lot of measurements and figures. Were those made by you? A. Yes, sir.

Q. And at the time— A. What, sir?

Q. At the time in March, 1932. A. Those were made in March, 1932. They are measurements of the original ladder that I made with Trooper Kelly.

Q. And they are your original measurements made by yourself and Trooper Kelly. A. Well, I mean he would have one end of the tape line and I'd have the other. I mean—

Q. Of course. A. —these are the measurements as we recorded them.

Q. And those measurements are of the ladder in great detail? A. Yes.

Q. Now at the time you were examining this ladder and it was being processed by the silver nitrate process did you notice for any reason at all the rail that I now direct your attention to and which is marked "Rail Number 16." A. May I see it?

Q. Yes, sir. A. Yes, I remember this rail with the knot and the two nails on each side. I think somewhere in these charts there is reference to it, if I am not mistaken.

Q. And did your examination at that time take into consideration nails, where they were placed, knots and nail holes? A. I recall one hole made at that time by a square nail.

Q. And was there more than one hole at that time in rail 16 made by a square or a cut nail? A. I can only recall one hole made in that rail that I saw at that time.

Q. Well, was your scrutiny of the rail such that if there had been four that you must have found them? A. I would have seen them, yes, sir.

Mr. Pope: I am sorry. May I take some time out for a moment.

(Defense counsel confer.)

Q. You may refer to your diagrams, Doctor, if they will refresh your recollection respecting any of these matters. I want to call your attention to—I don't know what section this—but I want to call your attention to rung No. 11 on one section of the ladder. Do you recall whether that was—the lower part of this crosspiece was broken off at the time you processed the ladder? A. Well, I think you can see that there is no—very little stain there.

Mr. Wilentz: Please answer the question; do you recall?

The Witness: Recall? What was the question?

By Mr. Pope:

Q. Do you recall whether that was broken or was it in that same condition then as it is now? A. Well, that particular—

Q. In other words— A. That particular rung, I couldn't say.

Q. What I want to know—

Mr. Wilentz: What is the answer? That particular rung—

A. That particular rung, I couldn't say. I know some rungs were split and broken, because—

Mr. Wilentz: "That rung I don't recall," all right.

By Mr. Pope:

Q. Does your chart show it, your details? A. No, sir; they were just measurements, notches like this.

Q. Well, the main thing I wanted to get at was this, Doctor: Can you tell, by looking at the broken portion or bottom portion of rung No. 16, whether that was processed or not with a nitrate process? A. I could tell by analysis.

Q. Oh, you couldn't tell by just merely looking? A. I couldn't, no.

Q. I see. Do you recall whether any red paint or ox paint or pigment was found on any portion of the ladder? A. I recall a small spot of red paint was on one of the side rails, but which rail I cannot remember.

Q. And did you take samples of that for analysis? A. I didn't, no, sir.

Q. Do you know whether samples were taken, in your presence? Do you remember? A. Not in my presence, no, sir.

Q. Not in your presence. Now at the time you were processing the ladder, calling your attention to rail number—it doesn't seem to be numbered. Well,

I am calling your attention to a rail—oh, yes, it is, No. 13, rail No. 13—had that been sawed in two and joined together like this at the time it was processed? A. No, sir, not at that time.

Q. Have you ever seen ladders of that type, character and description before, Doctor?

Mr. Wilentz: Oh, I submit he is not an expert on ladders, if your Honor, please.

Mr. Pope: Well, he may be, I don't know.

Mr. Wilentz: Well, all right.

Mr. Pope: I am asking him if he ever saw them.

A. No, sir, never.

Q. Ladders of that character, type and description. A. No, sir, never.

Q. He says no. You are advised that the defendant in this case, Mr. Hauptmann, was arrested in the month of September, 1934, and was held in custody in the City of New York until some time in the month of October, 1934, at which time he was extradited and brought over to New Jersey. After that time was there ever submitted to you either by the police of New York City or the Bronx or by the State Police of New Jersey, specimen fingerprints of the Defendant Hauptmann, for the purpose of comparison and identification, with photographs of fingerprints that had been taken off from this ladder? A. No, sir, I never saw the photographs of the fingerprints on the ladder.

Q. Now, Doctor—

The Court: I was about to say it is our recess time.

Mr. Pope: I have just one more question. May I ask that?

The Court: Yes.

Q. I wanted to ask you about palm prints. Will you tell us about palm prints before we adjourn? A. A palm print is just like a fingerprint, only it is made by the palm of the hand, same general character.

Q. And were there some palm prints found among others? A. Yes, sir.

Mr. Wilentz: If your Honor, please, since we saved some time, or rather, since we lost some time yesterday and the day before, can't we continue for a little while longer, fifteen minutes, say?

The Court: Well, we might perhaps extend the time for Mr. Pope to finish his direct examination if there is any prospect of his doing so.

Mr. Pope: I cannot do that.

The Court: Is there anything pending now—the witness has answered the question. We will take a recess now until ten o'clock tomorrow morning.

The people in the court room will remain seated.

The jury may now retire.

(At 4:30 P. M. the jury retired.)

The Court: The prisoner is now remanded to the custody of the Sheriff.

(The prisoner retired in the custody of the Sheriff.)

The Court: The Court will now take a recess until tomorrow morning at ten o'clock.

(At 4:35 o'clock P. M. the further trial of the case was adjourned until tomorrow morning, Thursday, February 7, 1935, at ten o'clock.)