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Writ of Error.

New Jersey, ss:

To Joseph A. Delaney, Esquire, Judge of the Court of Quarter Sessions of the County
(Seal.) of Passaic:

Because in the record and proceedings, and also in giving of judgment upon certain indictments against George S. Unger and Solly Karp, late of the City of Paterson, County of Passaic and State of New Jersey, for robbery and also for assault with a pistol.

Pro ut the said indictments and the several counts therein, whereof, before you, they have been indicted, and convicted by a certain Jury of the County of Passaic taken between the State of New Jersey and the said George S. Unger and Solly Karp, as it is said, manifest error hath intervened to the great damage of the said George S. Unger and Solly Karp, as from their complaints we have received information, we being willing in this behalf to correct the error in due manner, if any there shall be, and that speedy justice be done to them, the said George S. Unger and Solly Karp, command you that if judgment be thereon given, then that you distinctly and openly send, under your seal, the record and proceedings aforesaid, with all things touching the same to our justices of our Supreme Court of the State of New Jersey, on the fourth day of June, next, and this writ, that the record and proceedings aforesaid being inspected, we may further cause to be done thereupon for correcting that error, what of right and according to the law ought to be done.

WITNESS, William S. Gummere, Esquire, our Chief Justice, at Trenton aforesaid, the fifteenth day of May, nineteen hundred and twenty-five.

EDWARD J. KELLEHER,
Clerk.

Stein & Stein,
and
Peter Cohn,
Attorneys.

Return to Writ of Error.

STATE OF NEW JERSEY.

PASSAIC COUNTY, to wit: Be it Remembered, That at a Court of Quarter Sessions, held at Paterson, in and for the said County of Passaic, on the Twentieth day of March, in the year of our Lord one thousand nine hundred and twenty-five, being the day on which the Grand Jury heretofore summoned to come before the Court of Oyer and Terminer and now sitting in and for said County, desires to present bills and no Justice of the Sueprme Court being present at the Court House in said County, before the Honorable Joseph A. Delaney, Judge of the said Court of Quarter Sessions in and for the said County of Passaic, according to the form of the statute in that case made and provided; by the oath of

1. Joseph Addy, Foreman,
2. Mrs. Baetrice H. Blodgett,
3. Mrs. Ida C. Cadmus,
4. Mrs. Eliza A. Carr,
5. Mrs. Edith S. Levine,
6. William Thurston,
7. Joseph De Long,
8. Leonard M. Breen,
9. Henry F. Remig,
10. Patrick J. O'Rourke,
11. Samuel Roemer,
12. William P. Walsh,
13. Rev. Adelbert Frey,
14. Mrs. Hannah Van Valer,
15. John L. Fitzgerald,
16. Roy T. Yates,
17. Michael Schwartz,
18. Mrs. Anna B. Van Winkle,
19. Mrs. Anna B. Livingston,
20. Joseph Dunn,
21. George Abert,
22. Louis L. Claxton,
23. Mrs. Stella L. Aronsohn.

good and lawful men of the said County of Passaic, duly summoned and then and there sworn and charged to inquire in behalf of the State of New Jersey in and for the said County of Passaic; it is presented in manner and form following, to wit:

The Bills herewith presented are true Bills.

J. WILLARD DE YOE,
Prosecutor.

Joseph Addy,
Foreman.

COURT OF OYER AND TERMINER IN AND FOR THE COUNTY OF PASSAIC.

January Term A. D., Nineteen Hundred and Twenty-Five.

PASSAIC COUNTY, to wit: The Jurors of the State of New Jersey, in and for the body of the County of Passaic, upon their oath, PRESENT, that George S. Unger, Solly Karp, John Doe and Richard Roe, late of the City of Paterson, in the County of Passaic aforesaid, on the Seventh day of March, in the year of our Lord nineteen hundred and twenty-five, with force and arms, at the City aforesaid, in the County aforesaid, and within the jurisdiction of this Court, in and upon one Nehemiah Vreeland, unlawfully an assault did make with a certain pistols then and there loaded with gunpowder and bullets, which they, the said George S. Unger, Solly Karp, John Doe and Richard Roe, then and there had and held, and with said pistols, so loaded as aforesaid, they the said George S. Unger, Solly Karp, John Doe and Richard Roe, did then and there point at and towards the said Nehemiah Vreeland and did then and there threaten to fire off and discharge said pistols so loaded as aforesaid, at, towards and against the said Nehemiah Vreeland, contrary to the form of the statute in such case made and provided and against the peace of this State, the government and dignity of the same.

J. WILLARD DE YOE,
Prosecutor of the Pleas.

Witness:
Nehemiah Vreeland.

Indictment.

COURT OF OYER AND TERMINER IN AND FOR THE COUNTY OF PASSAIC.

January Term A. D., Nineteen Hundred and Twenty-Five.

PASSAIC COUNTY, to wit: The Jurors of the State of New Jersey, in and for the body of the County of Passaic, upon their oath, PRESENT, that George S. Unger, Solly Karp, John Doe and Richard Roe, late of the City of Paterson, in the County of Passaic aforesaid, on the Seventh day of March, in the year of our Lord nineteen hundred and twenty-five, with force and arms, at the City aforesaid, in the County aforesaid, and within the jurisdiction of this Court, in and upon one Nehemiah Vreeland there being, forcibly and violently an assault did make, and him the said Nehemiah Vreeland in fear, then and there, did put, and money to the amount of Seventeen thousand nine hundred dollars, of the value of seventeen thousand nine hundred dollars, of the moneys, goods and chattels of the said Manhattan Shirt Company, a corporation recognized by the laws of this State, from the person and against the will of the said Nehemiah Vreeland, unlawfully, violently and forcibly, then and there, did rob, seize, take and carry away, contrary to the form of the statute in such case made and provided, and against the peace of this State, the government and dignity of the same.

And the jurors aforesaid, upon their oath aforesaid, do further present that the said George S. Unger, Solly Karp, John Doe and Richard Roe, on the Seventh day of March, in the year of our Lord nineteen hundred and twenty-five, in the City of Paterson aforesaid, in the County of Passaic aforesaid, unlawfully,

wilfully and maliciously did steal, take and carry away, money to the amount of seventeen thousand nine hundred dollars, of the value of seventeen thousand nine hundred dollars, of the moneys, goods and chattels of the said Manhattan Shirt Company, a corporation recognized by the laws of this State, from the person of the said Nehemiah Vreeland, unlawfully, privily and without his knowledge or consent, contrary to the form of the statute in such case made and provided, and against the peace of this State, the government and dignity of the same.

And the Jurors aforesaid, upon their oath aforesaid, do further present, that George S. Unger, Solly Karp, John Doe and Richard Roe, late of the City of Paterson, in the County of Passaic aforesaid, on the Seventh day of March, in the year of our Lord nineteen hundred and twenty-five, with force and arms at the City aforesaid, in the County aforesaid, and within the jurisdiction of this Court, money to the amount of seventeen thousand nine hundred dollars, of the value of seventeen thousand nine hundred dollars, of the moneys, goods and chattels of Manhattan Shirt Company, a corporation recognized by the laws of this State, unlawfully did steal, take and carry away, contrary to the form of the statute in such case made and provided, and against the peace of this State, the government and dignity of the same.

And the Jurors aforesaid, upon their oath aforesaid, do further present that the said George S. Unger, Solly Karp, John Doe and Richard Roe, on the Seventh day of March in the year of our Lord nineteen hundred and twenty-five in the City of Paterson aforesaid, in the County aforesaid, money to the amount of seventeen thousand nine hundred dollars, of the value of seventeen thousand nine hundred dollars, of the

moneys, goods and chattels of the said Manhattan Shirt Company, a corporation recognized by the laws of this State, before then unlawfully stolen, taken and carried away, unlawfully did receive and have the said George S. Unger, Solly Karp, John Doe and Richard Roe, then and there well knowing the same to have been unlawfully stolen, taken and carried away, contrary to the form of the statute in such case made and provided, and against the peace of this State, the government and dignity of the same.

J. WILLARD DE YOE,
Prosecutor of the Pleas.

Witness:
Joseph M. Mosley,
Nehemiah Vreeland.

THEREUPON the said Court of Quarter Sessions did receive such Indictments and the Clerk of the said Court of Quarter Sessions did file the same in the said Court; and also did thereupon make entry thereof in the Minutes of said Court at the then session of said Court, and afterwards, to wit, at the same term of said Court of Quarter Sessions, holden at Paterson, in and for the County of Passaic aforesaid, to wit: on the Twenty-third day of March, A. D. Nineteen Hundred and Twenty-five, at a session thereof before the Honorable Joseph A. Delaney, Judge of said Court, in and for said County of Passaic, according to the statute in such case made and provided, comes the said George S. Unger, in his own proper person, and now touching the premises in said indictments above specified and charged against him, being him, being asked in what manner he will acquit himself, says, he is

not guilty and of this he puts himself upon the country, etc., and J. Willard De Yoe, Esquire, who prosecutes for the State of New Jersey, in his behalf, doth the like, and on the Third day of April, A. D. Nineteen Hundred and Twenty-five, at a session thereof before the Honorable Joseph A. Delaney, Judge of said Court, in and for said County of Passaic, according to the statute in such case made and provided, comes the said Solly Karp, in his own proper person, and now touching the premises in said Indictments above specified and charged against him, being him, being asked in what manner he will acquit himself says he is not guilty and of this he puts himself upon the country, etc., and J. Willard De Yoe, Esquire, who prosecutes for the State of New Jersey, in this behalf, doth the like.

Therefore, let a jury come here before the Judge aforesaid, at Paterson aforesaid, in the County of Passaic aforesaid, at a session of the Court of Quarter Sessions aforesaid, on the Sixth day of May, next ensuing, being of the Term of April, A. D. Nineteen Hundred and Twenty-five, of twelve good and lawful persons, each of whom shall be a citizen of this State and a resident within the County of Passaic aforesaid, above the age of twenty-one years, and under the age of sixty-five years, by whom the truth of the matter may be better known, and who are not of kin to the said George S. Unger and Solly Karp to recognize upon their oaths whether the said George S. Unger and Solly Karp be guilty as in the said Indictments specified, or not guilty, because as well the said J. Willard De Yoe, Esquire, Prosecutor of the Pleas for the said County of Passaic aforesaid, who prosecutes for the State of New Jersey aforesaid, in this behalf, as the said George S. Unger and Solly Karp

have put themselves upon the said jury, and the same day is given to the parties aforesaid, at the same place.

And thereupon, on the Eighth day of May, A. D. Nineteen Hundred and Twenty-five, being as yet of the Term of April, of said Court, before the Court of Quarter Sessions aforesaid holden by the Honorable Joseph A. Delaney, Judge as aforesaid, come as well the said J. Willard De Yoe, Prosecutor of the Pleas, aforesaid, who prosecutes as aforesaid, as the said George S. Unger and Solly Karp, in their own proper person, and the jurors of said jury, by the Sheriff of the County of Passaic aforesaid, for this purpose empanelled and returned, to wit:

1. Gustave Otto	7. Robert Belifield
2. Alex De Keyser	8. William De Vogel
3. William Peter	9. Christian Mennel
4. George H. Dearborn	10. Aaron Bampie
5. Thomas Waywell	11. Julius Byrnes
6. John M. Fenarty	12. James E. Teale

also come, who to speak the truth of the matters within contained, being chosen, tried and sworn upon their oaths, say that the said George S. Unger and Solly Karp are guilty of the premises in the within indictments named and specified, in manner and form as by the indictments are charged against them.

And thereupon, on the Fifteenth day of May, A. D. Nineteen Hundred and Twenty-five, it was demanded of the said George S. Unger and Solly Karp if they have or know anything to say wherefore the Court here ought not upon the premises and verdict proceed to judgment against them, who nothing further say, unless as they have before said.

Wherefore, all and singular, the premises being seen

and by the Court here fully understood, it is considered by the Court, and the sentence of the law is, that on the indictment for Robbery the said George S. Unger and Solly Karp shall be confined in the State Prison at hard labor, for the maximum term of fifteen years and the minimum term of ten years, and upon the indictment for Assault with a Pistol the said George S. Unger and Solly Karp shall be confined in the State Prison at hard labor, for the maximum term of three years and the minimum term of two years, the term of the sentence imposed upon the indictment for Assault with a Pistol to commence at the expiration of the term of the sentence imposed upon the indictment for Robbery.

JOS. A. DELANEY,
Judge.

State of New Jersey,
County of Passaic, ss:

I, John McCutcheon, Clerk of said County and Clerk of the County Courts thereof, Do Hereby Certify that the foregoing is a true transcript of the record and proceedings in the cases of George S. Unger and Solly Karp, convicted of Robbery and Assault with a Pistol, in our Court of Quarter Sessions, as the same is taken from and compared with the original record now remaining on file and of record in my office.

In Testimony Whereof, I have hereunto set my hand and affixed the seal of the (L. S.) said Courts and County, at Paterson, this twenty-eighth day of May, A. D. Nineteen Hundred and Twenty-five.

JOHN McCUTCHEON,
Clerk.

146548

Indictment

State of New Jersey,
County of Passaic, ss:

I, Joseph A. Delaney, Judge of the Court of Quarter Sessions, in and for the County of Passaic, do hereby in the schedule hereto annexed send to our Justices of our Supreme Court of Judicature of the State of New Jersey, at Trenton, the record and proceedings mentioned in the within Writ of Error, with all things touching the same, as I am within commanded.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the seal of the (Seal.) said Court and County, at Paterson, this Twenty-eighth day of May, A. D. Nineteen Hundred and Twenty-five.

JOS. A. DELANEY,
Judge.

146548

Writ presented May 22, 1925.
Let return be made.

JOS. A. DELANEY,
Judge.

Case.

PASSAIC COUNTY QUARTER SESSIONS.

THE STATE

vs.

GEORGE S. UNGER and SOLLY KARP,
Defendants.

Before Hon. Joseph A. Delaney, J., and a jury.

Paterson, N. J., May 6, 1925.

Appearances:

Bernard L. Stafford, Esq., Assistant Prosecutor, for the State.

Benjamin L. Stein, Esq., Meyer W. Stein, Esq., for the defendant, Unger.

Messrs. Ward & McGinnis, Peter Cohn, Esq., for the defendant, Karp.

Mr. Ward: We move for a severance on this indictment and separate trial. Our investigation discloses that the two defenses are entirely dissimilar and we maintain the connection is very slight. I think it would be much better in the interests of all that these men be tried separately. I have conferred with Mr. Stein about that and he agrees with me that the connection was so slight between them that we think they should be tried separately.

Mr. Stafford: The State objects to a separate trial on a joint indictment. The evidence is such that we don't feel we should consent to any severance.

The Court: These defendants were engaged in the same transaction?

Mr. Stafford: The same transaction and at the same time.

Mr. Ward: I may say we represent Mr. Karp and Mr. Stein represents Mr. Unger and they are entirely separate defenses and their interests are not similar. The charge, of course, is a very serious one. I have not had much chance to confer with Mr. Stein, but I understand Mr. Unger was here in Paterson and Mr. Karp was nowhere near here. I think the fact that Unger was in Paterson and that Karp was not—

Mr. Stafford: The State will prove they were both here in Paterson at the scene of the holdup.

The Court: Under those circumstances I will deny the motion.

A jury being empanelled and found satisfactory, they were sworn.

Mr. Stafford opens for the State.

THOMAS F. GUAINE, sworn for the State.

Direct-examination by Mr. Stafford:

Mr. Stafford: May I ask what the gentleman at the bar, who was just brought in, is doing?

Mr. Ward: The gentleman at the bar is one interested in this case and one whom we deem necessary to consult.

The Court: The reference is to whom?

Mr. Stafford: To the gentleman who just came in and sat at the table.

Mr. Ward: I don't think it is fair for Mr. Stafford—

Mr. Stafford: I ask the Court to remove from the bar those that are not attorneys or defendant.

Mr. Ward: The gentleman is necessary in the consultation and the conduct in this case.

The Court: The Court will order all those persons at the bar to leave their position excepting the attorneys and the defendant.

Mr. Ward: Does that include the man whom we deem necessary in the conduct of this case?

The Court: If he is not an attorney or a defendant.

Mr. Ward: Your Honor will permit an exception?

The Court: Yes.

Defendants except. Exception allowed and signed and sealed accordingly.

JOS. A. DELANEY,
Judge.

Q. Where do you live? A. Fifty Prince Street.

Q. What is your business? A. Assistant treasurer of the Manhattan Shirt Company.

Q. How long have you worked there? A. Forty-one years.

Q. Were you working there on the seventh day of March, nineteen hundred and twenty-five? A. Yes, sir.

Q. Did anything unusual happen on that day in the morning in the neighborhood of eight-thirty or nine o'clock? A. Yes, sir.

Q. What was it? A. When coming from the bank.

Q. Who? A. Mr. Vreeland.

Q. Who else? A. Mr. Cadmus and myself.

Q. What bank? A. The First National Bank.

Q. Where is that? A. On the corner of Washington and Ellison Streets.

Q. What time did you arrive at the bank? A. About eight thirty-five.

Q. Why were you at the bank? A. To get the pay roll money.

Q. How much did that amount to? A. Seventeen thousand nine hundred dollars.

Q. Who received the money? A. I did.

Q. Who handed you the money? A. The paying teller, Mr. Deighton.

Q. How was it handed to you? A. In a black satchel.

Q. Did you see the money put in the satchel? A. No, sir.

Q. What was the paying teller's name? A. John Deighton.

Q. Who was present when he handed you this satchel? A. Mr. Vreeland was the only one I knew.

Q. What did you do when the satchel was handed to you? A. We carried it out and I put it in the machine.

Q. What part of the machine did you sit in? A. In the truck and we sat on the one seat, Cadmus, Mr. Vreeland and myself.

Q. When you left the bank in what direction did you proceed? A. We turned into Washington Street and went up Broadway to Paterson Street and down Paterson until we got to River Street, and went down towards Lawrence and turned around, we turned on River Street into the yard there in order to face towards Main Street.

Q. Can you recall what time you arrived at the mill when the machine stopped at the office with the truck facing towards Main Street? A. About eight forty-five.

Q. When you stopped did anything unusual happen? A. Mr. Vreeland got out and I got out and Vreeland was reaching up for the bag and when I turned around I saw a man in front of me with a gun, a pistol.

Q. Did he say anything to you? A. He said, "Stand," he said, "Take your hands out of your pockets," he said, "Put your hands up," then I saw a man run past with the satchel and this man says, "Don't move," and as he ran past Karp began to back up but still faced me with the pistol.

Q. Do you see him in court here today? A. Yes, sir.

Q. Can you come and put your hand on the shoulder of the man you say pointed the pistol at you? A. This is the man (indicating defendant, Karp).

Q. Can you tell us, Mr. Guaine, how long you looked at the man who had the pistol pointed at you? A. I don't imagine it was more than half a minute, it might have been longer.

Q. How long did he stand in front of the car before he started to back away? A. I suppose about two-thirds of that half minute.

Q. When he backed away in what direction did he go? A. He walked backwards to the car that was stationed there on the car track facing in the direction of Lawrence Street.

Q. As he walked backwards was there anybody near him? A. The man with the bag had gotten over first but I did not see anyone else near him.

Q. How many men did you see all together? A. Two.

Q. The man with the bag and the man with the pistol? A. Yes, sir.

Q. Did you see Mr. Vreeland after he got out of

the car? A. Yes, sir, he ran after this man with the bag, ran on the sidewalk and got almost to the car and then he put his hand up iike this and his head was bleeding.

Q. His head was bleeding? A. Yes, sir.

Q. As Mr. Karp backed up with the pistol in what direction was the pistol pointed? A. He waved it a little towards everybody on the sidewalk. He was walking into the gutter on the street.

Q. Did you see where he went? A. I saw he went towards the car and as soon as he turned I ran in to give the alarm.

Q. You did not see him after that? A. Not until about a week later.

Q. Then, where did you see him? A. In the police station in New York on One Hundred and Fourth Street.

Q. Who were present when you saw him there? A. There were a lot of detectives there.

Q. Where was he when you saw him? A. I saw him in a line-up.

Q. How many men were in the line? A. There were five, I am quite sure, there were five, there might have been more.

Q. Five? A. There were at least five.

Q. When you saw him in the line-up what did you do? A. I came into the room again and the detectives asked me if I was sure and I said, "Yes."

Objected to by Mr. Ward.

Mr. Stafford: I consent to that being stricken out.

Q. Did you identify him there? A. Yes, sir.

Q. Did you see him again, Mr. Guaine, after that identification? A. Yes, I saw him in the line there and I talked to him.

Q. After you talked to him did anything happen? A. I saw him at the time he confessed that he was—

Mr. Ward: I object to it and ask that it be stricken out.

The Court: Strike it out.

CROSS-EXAMINATION by Mr. Ward:

Q. You say you arrived at the bank at eight forty-five? A. Eight thirty-five.

Q. I beg your pardon, eight thirty-five? A. Yes, sir.

Q. Are you correct as to that time? A. Well, fairly so.

Q. It could not have varied more than a few minutes either one way or another, is that true? A. Yes, sir.

Q. When you arrived at the mill of the Manhattan Shirt Company you, of course, did not expect anything of this kind to happen? A. No, sir.

Q. When it happened it came as an entire and complete surprise to you, didn't it? A. Yes, sir.

Q. I believe you stated you got out first? A. Mr. Vreeland got out first.

Q. Then did you get out? A. Yes, sir.

Q. Then Mr. Vreeland asked you to get the bag? A. No, sir, he asked for the bag and Mr. Cadmus handed him the bag.

Q. Handed you the bag? A. No, handed it to Mr. Vreeland.

Q. In which direction were you facing at the time? A. I was facing the car track.

Q. River Street runs in a general easterly and westerly direction? A. Yes, sir.

Q. You had turned your car so that it was pointed westerly? A. Right.

Q. Alongside of the curb? A. Yes, sir.

Q. What was the position of Vreeland? A. Facing the car, that would be south.

Q. Facing the car just as I am facing the jurymen and juryladies in the jury box? A. About that, a little more to the right.

Q. Assuming that to be the end of the car he was about here? A. No, turn a little more.

Q. About southwesterly, in other words? A. Yes, sir.

Q. You were standing beside him? A. On this side of him.

Q. You were also facing the southwest? A. I was more south, facing the car.

Q. Were you close enough to the car to be able to touch it? A. Yes, sir.

Q. Was Vreeland close enough to the car to be able to touch it? A. He was a little further out.

Q. Were you between the car and Mr. Vreeland? A. No, not exactly, I was a little to this side of him.

Q. There was a sort of an angle formed by you and the car and Mr. Vreeland? A. Yes, sir.

Q. Then Mr. Cadmus handed this bag out to Mr. Vreeland? A. Yes, sir.

Q. Then suddenly someone hit Vreeland? A. I don't know.

Q. Did you see Vreeland hit? A. No.

Q. Did you see the bag grabbed? A. No.

Q. But someone, you say, said something to you? A. Karp said something to me.

Q. Whomever it might have been? A. Yes, sir, that was after I turned around.

Q. You did not see Vreeland hit? A. No, sir.

Q. You did not see the bag grabbed and there was nothing to make you turn around? A. After Vreeland

had gotten the bag from Cadmus we naturally turned around to go into the mill.

Q. If you were facing towards the south wouldn't you have turned to your right to go in with Vreeland, to follow him in? A. Yes, sir.

Q. These persons, whoever they were, came from the side? A. I don't know where they came from.

Q. Mr. Quaine, are you sure of your position where you were when Mr. Vreeland was hit? A. When he was hit?

Q. Hit? A. As I told you, I did not see him hit.

Q. Then you don't know exactly what your position was? A. Yes, sir, I do.

Q. How do you know what your position was when he was hit? A. I said I did not see him hit.

Q. Then you don't know just exactly where you were when he was hit, do you? A. No.

Q. Were you out of that car before he was hit? A. Yes, sir.

Q. Are you sure of that? A. Yes, sir.

Q. You turned around to follow Vreeland you say and someone then said something to you? A. Yes, sir.

Q. Then you turned around again? A. No, I did not.

Q. You don't know where this person came from? A. I saw him in front of me.

Q. If he had come up in front of you couldn't you have seen him as you came out? A. He was there when we turned around.

Q. You don't know that, do you? A. I don't know what?

Q. That he was there when you turned around? A. When I turned around he was there.

Q. You don't know where he came from? A. No.

Q. He was directly in your view? A. No, sir.

Q. Wasn't he within arm's length of you? A. No, not after he had the bag he was not, he didn't know whatever happened—

Q. Is it not true that Vreeland got that bag and started to go to the mill and you followed him? A. No, sir.

Q. You did not? A. No, sir.

Q. What did you do? A. I said we naturally—

Q. What you did that morning, if you remember; if you don't remember, tell us so? A. I remember all about it. Mr. Vreeland got the bag. You are asking me if I followed Vreeland. Vreeland naturally would go into the office unless somebody interfered with him.

Q. And you would naturally follow him? A. Yes, sir.

Q. You did naturally follow him? A. No, he was turning towards Main Street—

Q. When he got the bag and turned towards the right to go to the mill, you turned to the right also to go in? A. I was out of the car before he got the bag.

Q. Do you understand my question? A. Yes, sir.

Q. When Cadmus, as you say, handed this bag to Vreeland, and when Vreeland then turned to go into the mill, you likewise turned? A. Yes, sir.

Q. And you turned to follow Vreeland, didn't you? A. Yes, sir.

Q. Immediately, didn't you? A. Yes, sir.

Q. Then you heard this expression? A. May I say this—

Q. Did you or not hear this expression you testified to on your direct-examination? I think you said you

saw a man with a pistol, is that correct? A. Yes, sir.

Q. And Vreeland was right in your view— A. He was not, no.

Q. Why wasn't he, if you turned around to follow Vreeland, and were following Vreeland, wasn't he in your view? A. No, because Vreeland was nearer Main Street.

Q. He was to your left and ahead of you? A. He was not directly ahead of me.

Q. That street is straight, there is no corner around it where he could disappear or anything of that kind? A. He did not disappear.

Q. There was no reason why you could not have seen him, was there? A. The reason was, this man occupied my entire attention.

Q. If I am looking at Mr. Stafford and direct my attention to him I can still see the rest of the court room in front of him. A. You could not see anybody on your left very well.

Q. Direct your attention to me. Can't you now see out of the corner of your eyes that jury? A. Yes, sir.

Q. Couldn't you have, on the same occasion, seen Vreeland? A. In that sense I saw Vreeland.

Q. In what sense? A. I knew he was there.

Q. Why have you said you didn't see him at all? A. I said I did not see him.

Q. Didn't you say a moment ago, of course you know you are under oath? A. Yes, sir.

Q. When you turned around that you didn't see Vreeland? A. I didn't see him, except as you say about the jury, I knew he was there, but he was, he was there, but I was directly the other way. I was looking more towards Straight Street.

Q. But your memory now is such that you cannot

tell us, that you could not tell us a few moments ago, whether or not you saw Vreeland after you turned around? A. How soon after that?

Q. Immediately after you turned around? A. When I turned around first I saw this man, Karp, with a pistol.

Q. Nothing else? A. No, sir. I knew Vreeland was at the side.

Q. But you said you did not see him? A. I did not look directly at him but when you bring in that about the jury—

Q. When you said you didn't see him you were wrong, were you not? A. No.

Q. You saw a man with a pistol pointed at you? A. Yes, sir.

Q. Your attention was principally directed to the pistol? A. Principally.

Q. You directed your attention wholly and entirely to that pistol, right before you, when you say you saw the man behind it just about as you saw Vreeland, isn't that true? A. No, sir.

Q. That is not so. You were excited? A. I was, yes.

Q. Nervous? A. I suppose I was.

Q. Confused? A. I would not say I was confused.

Q. You saw the very end of this pistol pointed right at you? A. It was not pointed directly at me, it was pointed at the ground.

Q. At the ground. Did he hold it this way? A. He held it out this way at the side.

Q. Your eyes were directed to the pistol held by that man pointing at the ground? A. I looked at him, too.

Q. Your principal attention was directed towards that pistol? A. Yes, sir.

Q. You wanted to see whether it was going to be raised to shoot you? I am not trying to confuse you. You wanted to see as a matter of fact, which was perfectly natural, whether that pistol would be raised to shoot you. A. I would like to answer you. I am trying to do the best I can. Whether I could look at it or not he could shoot just as well from the way that pistol was held.

Q. Your attention was directed to that pistol and the hand that held it? A. I looked at this face too.

Q. All of this happened in half a minute or less? A. That is about as near as I can come to it.

Q. Of course you realize that when a man has a pistol pointed in his direction the seconds drag out pretty long? A. I wouldn't say that.

Q. In other words I ask you if you don't think that if a pistol were being pointed at you or in your general direction with a threat to shoot for a period of five seconds that it would seem a pretty long period of time to you, wouldn't it? It would to me. Wouldn't it to you? A. Well—

Q. Under the circumstances, I mean all of the circumstances surrounding that incident. Can't you answer that? A. Will you repeat that, please?

Q. I say if a pistol were pointed at you under similar circumstances for five seconds of time it would seem a pretty long period of time? A. Yes, sir, that would seem long.

Q. Can you give us any idea of what a half a minute is? I will clap my hands and tell me when the time is up. A. About now I think.

Q. Do you realize that was just fifteen seconds?

Mr. Stafford: I object to the question.

Objection sustained.

Q. Do you know whether or not that was more than fifteen seconds? A. I think it was.

Mr. Ward: For the purpose of the record, as I understand you, this man had his hand to his side with his hand about at his hip, is that correct?

The Witness: Yes, sir.

Q. And the pistol pointed towards the ground in your general direction? A. Yes, sir.

Q. After a half a minute or whatever period of time it might have been, the period you described for the jury here, the man went away in the car? A. He backed away.

Q. You were asked on direct-examination how long you saw this man from the time you first saw him until the time you didn't see him any more?

Mr. Stafford: That was not the question.

Q. How long a time elapsed between the time you first saw the man and last saw him, for how long a period of time you saw him, and as I understood it, you said one-half a minute or less, that is true, is it? A. Yes, sir.

Q. That half a minute during which you think you saw him was the time you described to the jury as being the time of half a minute, that is right? A. Yes, sir.

Q. During that time you were looking at his hand and at the pistol contained in his hand, were you not? A. Yes, sir.

Q. Now, Mr. Quaine, you didn't see anything else that happened. I don't mean that in its entirety.

The Court: The witness has said he saw his face when he was looking.

Q. You did not see Mr. Vreeland struck? A. No, sir.

Q. Although he was right in line with your vision? A. He was not in line with my vision.

Q. If you had been looking at the man with the revolver, whom I will indicate as Mr. Stein, although he was not the gentleman, couldn't you have seen Mr. Vreeland struck, if you were looking at the face of the man who held the revolver, could you not see this Vreeland struck over the head if this was Mr. Vreeland? A. If they were in similar positions.

Q. Will you come down here and place them in the positions they were?

The Court: Mr. Quaine has testified and the stenographer can read his testimony.

Q. I simply ask you to place in position the two men, that is the man representing Vreeland and Mr. Stein representing the man that, you say, held the revolver, and your position? A. That is about the way I was facing, this is where Karp was, here, and Mr. Vreeland was in that direction, to the west.

Q. You have now placed Mr. Stein, representing the man with the revolver, about three feet to your right and about three feet away from you? A. Yes, sir.

Q. You have placed the man who represents Mr. Vreeland as about five feet away from you and about five feet to your left, that is correct? A. Yes, sir.

Q. How do you reconcile that with your statement of a moment ago that as you swung around to your right you saw this man before you? A. He was on my right.

Q. As you swung around to your right you immediately saw this man here, how can you reconcile that with the position? A. He was to this side of me.

Q. Didn't you say you did not know where he

came from but as you swung to your right to go to the mill, he was directly in front of you? A. He was in front of me.

Q. If he was in front of you why did you say to the right? A. I turned to the right.

Q. You turned to your right? A. I turned to the right and I was facing this way, to the south, and I turned right to the east.

Q. You have testified—you know what your right and left hand is? A. Yes, sir.

Q. This is your right hand? A. Yes, sir.

Q. If you turned to your right you turned to the west, didn't you? A. Didn't you ask me if I was facing south?

Q. You have stated you were facing south? A. Yes, sir.

Q. When Mr. Vreeland got this bag you immediately turned around to your right, I ask you if that would be west? A. I turned to the right but came completely around.

Q. Didn't you face the west? A. No, I turned completely around to face the mill.

Q. Turning so you were facing to the west and north? A. Yes, sir.

Q. What made you say you were facing east? A. Why, I turned around to face the north and I was confronted by this man.

Q. Haven't you said he was directly in front of you? A. Yes, sir.

Q. Haven't you said he obstructed your view of Vreeland? A. Yes, sir.

Q. Why is it you now place him there and Vreeland there? A. As I remember I said I couldn't see him because I was occupied with the man with the pistol.

Q. You have testified this man obstructed your view of Vreeland?

Mr. Stafford: I object to it. That is not in the case.

Objection sustained.

Q. You have testified this man was in between you and Vreeland and that was one of the reasons you did not pay particular attention to Vreeland. Didn't you say on cross-examination when I tried to get you to indicate for me, the same as though I was the man with the revolver, and the jury back there was Vreeland, didn't you state that—

Mr. Stafford: I object to it. That is not a fact.

Mr. Ward: I place myself here—

The Court: If the witness did not testify to that, the jury has the testimony.

Q. To repeat my question and demonstrate to you, didn't I place myself directly before you or as I am now rather, and indicate that I was the man with the pistol and didn't you, and ask you if you could not see the jury back of me? A. You did not say it that way.

Q. Didn't you say yes you could see them? A. Yes, sir, out of the corner of my eye, yes, well, couldn't I see them?

Q. You saw the car go away? A. No, I did not.

Q. That contained this man? A. I did not see the car go, no, sir.

Q. I think you said you saw Mr. Vreeland running by the car? A. Running towards the car.

Q. And the blood was running down over his face? A. I did not notice it on his face. I noticed him put his hand to his head.

Q. You could not identify anyone else who was there? A. No.

Q. That is positive? A. Yes, sir.

Q. So, the man who grabbed the bag and ran away with it, whom the State declares to be Mr. Unger, you cannot identify?

Mr. Stafford: I object to that, the State did not state that.

Objection sustained.

Defendants except. Exception allowed and signed and sealed accordingly.

JOS. A. DELANEY,
Judge.

Mr. Ward: Does the State claim Mr. Unger ran with the bag?

Mr. Stafford: All the State claims is that Unger is the man that could not get on the car.

Q. You cannot identify Mr. Unger or any of the other men that were there, can you? A. No, sir.

Q. Then you went down to New York some days after? A. Yes, sir.

Q. Where did you go? A. To the police station on One hundred and Fourth Street.

Q. Didn't you testify that you saw Vreeland run after the car with his head bleeding, wasn't that your very expression on your direct testimony? A. Maybe you understood it different from the way I meant it.

Q. Didn't you see his head bleeding? A. Only when he was going towards the car.

Q. As he was running towards the car didn't you see his head bleeding? A. When he got to the car I saw him put his hands up and I saw he had blood on them.

Q. When he was running, you stated on your direct-examination, as he was running towards the car

his head was bleeding? A. When he was near the car, yes, sir.

Q. His head was bleeding then? A. Yes, sir.

Q. Was the blood running down? A. As I saw it, it was on top of his head here.

Q. Did you say everybody was on the sidewalk? I understood you to make use of the expression that the man with the gun was in the gutter and everybody else was on the sidewalk? A. I don't know as I said everybody else. I know Vreeland was on the sidewalk.

Q. There were other people on the sidewalk? A. The man with the bag ran on the sidewalk part of the way.

Q. There were other people? A. There must have been.

Q. Do you remember seeing people there? A. There were some, yes, sir.

Q. Right there immediately? A. Further down River Street.

Q. As soon as you saw Mr. Vreeland run towards the car before the car had started, you turned and went into the mill? A. It was about ready to start.

Q. I think I understood you correctly when I understood you to say you did not see the car go away? A. No, I did not see it go away.

Q. You were going into the mill to give the alarm? A. I stepped into the gutter and got the number of the car and as soon as I got that I ran into the mill.

Q. Then you ran in to give the alarm? A. Yes, sir.

Q. When you stepped in the gutter to get the number of the car you were not being threatened with any revolver? A. No.

Q. That was all over? A. Yes, sir.

Q. The man who had the revolver had disappeared from your view? A. He had gotten into the car.

Q. He had disappeared from your view? A. Yes, sir.

Q. How many days afterward was it you went downstairs, I mean to New York? A. I went on the thirteenth, on Friday.

Q. That was six days after? A. Yes, sir.

Q. You thought there were five or more men in the line-up? A. Yes, sir.

Q. You don't remember how many? A. No.

Q. At this time you cannot tell this jury how many men were in that line-up? A. From their positions I shall say at least five.

Q. I say you cannot tell the exact number? A. All I can say is there were at least five.

Q. The line-up was of Mr. Karp and police officers, wasn't it? A. I don't know who the others were.

Q. You know they were police officers, right there in the station used in that line-up? A. I don't know it.

Q. They were all pretty big men? A. They were all taller than me.

Q. All much taller than this boy over here? A. There was one kind of short.

Q. They were all, as a matter of fact, taller than he? A. Yes, sir.

Q. Each and every one of the others had on a peaked cap? A. I don't remember that.

Q. Don't you know he was the only one of the line-up who had on a hat? A. I know he had a soft hat on.

Q. You remember that but you don't remember whether any of the others had peaked caps on or not? A. No.

Q. Your general impression of the man who held the revolver that day was the impression that it was a short man? A. Yes, sir.

Q. You picked out of this line-up the shortest man in the line-up? A. I looked at his face.

Mr. Ward: I ask that that be stricken out.

The Court: Strike it out.

Q. You picked out of this line-up the shortest man in the line-up, didn't you? A. Yes, sir.

Q. Then you went out and came back for a second time to be sure? A. I came back the second time, yes, sir.

Q. Then after having viewed this line-up you came back and saw this man lined up there, did you or not? A. I saw him afterward, yes, sir.

Q. To be sure that that was the man, that was right, wasn't it? A. I wanted to convince myself.

Q. When you first picked him out you were not convinced? A. Yes, sir, I was.

Q. Why was it necessary to come back the second time to convince yourself? A. I was a little scrupulous.

Q. A little bit in doubt, that is it, isn't it, frankly? A. Do you want to know why I went back?

Q. You were a little bit in doubt, Mr. Quaine? A. Well, a little bit, yes.

Q. Do you remember, Mr. Quaine, on your direct-examination that as soon as he turned, referring to the man with the revolver, you said, "I ran to give the alarm"? A. Yes, sir.

Q. So that as soon as this man turned from you, you then ran to give the alarm? Is that true or not? A. That is not true in that way.

Q. When you said on your direct-examination that

as soon as he turned you ran to give the alarm was that the truth or not? A. When he turned from facing me after getting the number I ran in but when he turned he was almost to the automobile.

Q. You are still employed by the Manhattan, Mr. Quaine? A. Yes, sir.

Q. Can you tell us how the officers or men in this line-up were dressed? A. They were—I can tell you they seemed to be dressed so that the only thing showed much was their face.

Q. Did they have their caps pulled down over their eyes? A. No, their faces were not covered over much.

Q. This man had a hat on? A. A fedora hat, yes, sir.

Q. Did you notice whether or not these other men in the line-up had blue trousers on? A. I did not see any blue trousers, I am sure they did not.

Q. As part of your identification there was the fact, was there not, that you believed that the man who pointed the revolver at you had a slouch hat on on the day of this occurrence? A. No, sir.

Q. On the day of the occurrence? A. He had on a cap on the day of the occurrence.

Q. Why do you remember that so well when you don't remember what this man had on and what happened in police headquarters? A. I was more impressed with him than I was with them.

Q. Didn't you consider it a pretty serious matter going down to New York to look over a line-up and identify a man who would be accused of a serious crime? A. Yes, sir.

Q. Didn't that make a great impression on your mind? A. Yes, sir, I guess it did.

Q. Didn't you consider the aspect of every man in

the line-up besides the defendant? A. I looked at everyone's face.

Q. Didn't you consider their general aspect as well? A. Yes, sir.

Q. You remember that this man, Mr. Karp, had a slouch hat on? A. Yes, sir.

Q. You didn't pay enough attention to the others to remember what kind of hat they had on? A. I don't remember.

Q. I believe you went down with members of the Paterson police force? A. Yes, sir.

Mr. Stein: There is no cross-examination as far as Unger is concerned.

RE-CROSS EXAMINATION by Mr. Ward:

Q. Did you request to have the State's attorney to have everybody removed from this table except the defendant so you could identify him alone? A. No.

Q. Did you have anything to do with the removal of any other person that might be identified with the defendant except the defendant? A. No.

Q. But you do know that this man I am pointing to, whose shoulder you put your hand on, was the only man sitting at that table except counsel? A. I don't recall that.

Q. When you walked down there and placed your hand on this Mr. Karp's shoulder, the defendant, you did not know that I and this gentleman and this gentleman and this gentleman were lawyers? A. Yes, I knew you were a lawyer.

Q. Did you know Senator McGinnis? A. Yes, sir.

Q. Didn't you know Mr. Cohn? A. Yes, sir.

JOHN T. DEIGHTON sworn for the State:

Direct-examination by Mr. Stafford:

Q. You are connected with the First National Bank? A. Yes, sir.

Q. You were working there on the seventh of March nineteen hundred and twenty-five? A. Yes, sir.

Q. Were you there around eighty-thirty or eight thirty-five in the morning? A. Yes, sir.

Q. Did you see Mr. Quaine or Mr. Vreeland on that date? A. Yes, sir.

Q. Did you put any funds in their hands? A. Yes, sir.

Q. How much was it? A. Seventeen thousand nine hundred dollars.

Q. Can you tell us in what denomination? A. Nineteen hundred dollars in ones, four thousand dollars in fives, ten thousand dollars in tens, two thousand dollars in twenties.

Q. Where did you put this money? A. I put it in a black bag.

Q. What did you do with it? A. I handed it over to Mr. Vreeland.

NEHEMIAH VREELAND sworn for the State:

Direct-examination by Mr. Stafford:

Q. Where do you live? A. Four hundred and fifteen Fifteenth Avenue.

Q. Paterson? A. Yes, sir.

Q. What is your occupation? A. Retired.

Q. On March seventh, nineteen hundred and

twenty-five what was your occupation? A. I was employed by the Manhattan Shirt Company.

Q. What was your position at the Manhattan Shirt Company? A. Why, assistant cashier you might as well say.

Q. About eight-thirty on the seventh of March, nineteen hundred and twenty-five, do you recall where you were? A. We went to the First National Bank.

Q. Were you alone? A. I went alone to the bank.

Q. Did you meet anybody there? A. Mr. Quaine and Mr. Cadmus with the car as I had done for a great many years. For a good many years I have done the same thing about eight-thirty every Saturday morning we went to the bank, we would meet there, I would go from my residence to the bank.

Q. Did you go to the bank this day? A. I was at eight-thirty, I was met at the First National Bank as we had done for a great many years.

Q. On this date what happened? A. We met at eight-thirty, received the bag about eight-forty, I should say, put it into the car, drove off, went down Washington Street to Broadway, to Paterson Street and drove into the mill yard and turned around and headed the car towards Main Street. I got out first as I was the last one to get in and I reached up my hand and says, "Hand me the bag." That is the last I knew for a second.

Q. What happened? A. I don't know. Something hit me on the head and took my senses away for a minute but I didn't fall I turned around to see what was going on. I got some blows on the top of my head and they took the bag, but, of course, I didn't see it. When the car drove up facing towards Main Street there was nobody on the sidewalk but ourselves in sight, except these, for they must have been very

quick, this car stopped in back of ours, because when I thought I could see anything at all I went around to see the number of the car and I walked around the end of our car but couldn't see anything because there was too much blood coming down.

Q. At the time you received the first blow on the head where was the satchel then? A. In my hand, I had just taken it down.

Q. When you received the second blow on the head where was the satchel? A. I can't tell you. I know it was gone.

CROSS-EXAMINATION by Mr. Ward:

Q. I understand you got out first? A. Yes, sir.

Q. Did you immediately, upon getting out, ask for the bag? A. I merely held up my hand and said, "Give me the bag."

Q. You were right close to the bag? A. Yes, sir.

Q. And no one else had gotten out but you at that time? A. No.

R. CADMUS sworn for the State:

Direct-examination by Mr. Stafford:

Q. Where do you work? A. The Manhattan Shirt Company.

Q. How long have you worked there? A. Twenty-five years.

Q. Were you working on the seventh of March in the morning? A. Yes, sir.

Q. At about eight-thirty? A. Yes, sir.

Q. Where were you? A. In front of the First National Bank on Ellison Street.

Q. Who were with you? A. I was alone at that time.

Q. Did you see Mr. Quaine or Mr. Vreeland? A. I saw them both. They came right after I got there.

Q. Where did they go? A. They went into the bank and I waited for them.

Q. Did they go in? A. They did.

Q. Did they come out? A. Yes, sir.

Q. Did they have a satchel? A. Yes, sir.

Q. What did they do with the satchel? A. Handed it to me and I put it in the truck.

Q. Then where did you go? A. Through Paterson Street down to the mill and turned around on Lawrence Street in the yard and turned up in front of the mill facing Main Street.

Q. Did anything happen? A. Mr. Vreeland got out and Mr. Quaine got out and Mr. Vreeland asked for the bag, the doors were slammed shut so I couldn't see anything and I couldn't even get out of the door.

Q. When the door was slammed shut where was Mr. Quaine? A. I think on the outside on the side of the car.

Q. Was he in the car with you? A. No.

Q. Did you see anything happen? A. The first thing I saw was Mr. Vreeland stagger, and I was going to start over and get out when somebody told me to stay where I was or they would shoot.

Q. Did you see the man? A. I couldn't identify anybody. I was told to stay where I was and imagined that was the best thing to do.

Q. Did you see any of the men on the sidewalk? A. Not to identify them.

Q. Did you speak to anybody? A. Yes, sir.

Q. Who were they, men, women or children? A. Two young men, but I couldn't recognize them.

Q. Where were they standing? A. A little over to the right.

Q. Was there anything in the road? A. A car back of my truck.

Q. How near your truck? A. About twenty feet.

Q. Facing in what direction? A. Facing the city.

Q. Did you see these two men after they backed away from the truck? A. No, sir.

Q. Did you see where they went? A. No, sir, I imagine they went in their cars.

Mr. Ward: I ask that that be stricken out.

Mr. Stafford: I consent to it.

Q. Did you see the car? A. Yes, sir.

Q. Did you notice where the car went? A. Towards the Straight Street bridge.

Q. Did you see it go? A. I wanted to get the license number as it was pulling out.

CROSS-EXAMINATION by Mr. Ward:

Q. Which is right that Mr. Quaine got out of that car before this occurred or that he didn't? A. Before, what do you mean?

Q. Before the affair took place? A. He was out on the sidewalk before the affair took place.

Q. Is it not true that Mr. Vreeland got out and immediately asked for the bag? A. No, he didn't ask for the bag until after Mr. Quaine was out.

WILLIAM STARUFOGEL sworn for the State:

Direct-examination by Mr. Stafford:

Q. Where do you live? A. Eight Amity Street.

Q. Where do you work? A. I go to high school.

Q. Were you in Paterson on the seventh of March, nineteen hundred and twenty-four? A. Yes, sir.

Q. Around eight-thirty or eight forty-five? A. Yes, sir.

Q. Where were you? A. Walking up River Street.

Q. Do you know where the Manhattan Shirt mill is? A. Yes, sir.

Q. Were you in that vicinity? A. Yes, sir.

Q. Did anything happen that was unusual that morning? A. I saw a man pull a satchel away from a man that was up here before.

Q. Yes. A. And he ran to a machine and jumped into the machine and another fellow came over to tell them to hold their hands up.

Q. Did you see that? A. Yes, sir, and then I saw that they went away and that is all I saw.

Q. Were you there when the car pulled up, pulled away? A. I was standing right in front of the Manhattan factory, the office.

Q. Where did the men go? A. They went up towards Riverside.

Q. In what? A. In a Studebaker car.

Q. All of them? A. Yes, sir, I saw three fellows.

Q. You saw three fellows ride away in a Studebaker car? A. Yes, sir.

Q. How close were you, William, to these men in front of the Manhattan Shirt works? A. About twenty feet away I was on the same side.

Q. Were you there when the car with Mr. Quaine and Mr. Vreeland and Mr. Cadmus came up? A. They were standing there just getting out of the machine.

Q. As you got there? How far were you away then when they got out of the machine? A. About twenty feet. I was near the—

Q. How far were you away from them when they were standing at the machine? A. About twenty feet.

Q. What happened as they were standing at the machine? A. I saw a fellow pull the black satchel and run away and throw it into the car and another fellow came over and told them to hold their hands up.

Q. Did you hear that?

Mr. Ward: I object to it as leading.

The Court: Proceed.

A. I did not hear them.

Mr. Ward: I ask that that be stricken out.

Q. What did you see? A. I saw him point the gun at them.

Q. Did you see anybody in front of them when he pointed the gun? A. Two men.

Q. Who? A. Mr. Quaine and the other fellow that was here.

Q. How long did they stand there pointing the gun? A. About a minute or fifteen or twenty seconds.

Q. Then what happened? A. They jumped into the car and went on towards Riverside.

Q. How many men were there altogether that participated in this affair besides Mr. Cadmus, Mr. Vreeland and Mr. Quaine? A. That is all, I think.

Q. How many were there besides these three I have mentioned? A. The ones holding them up.

Q. How many were there? A. The first one took the satchel and the other one came over with the gun.

Q. Can you identify any of the men that participated in that affair in court today? A. No, sir.

Q. How old are you? A. Fifteen.

Q. You can't identify any? A. No, sir.

Q. Has anybody been to see you, to talk to you about this case? A. No, sir.

Q. Is that your signature, William? A. Yes, sir.

Q. Do you remember when you signed it? A. Yes, sir.

Q. Was it read over to you? A. I read it myself.

Q. Is that your signature here? A. Yes, sir.

Q. Did you read that before you signed it? A. Yes, sir.

Q. Will you just look around the court room and see if you can identify any of the men that were in that holdup that morning? A. This Unger fellow was brought there and they claimed—

Mr. Stafford: Mr. Unger, will you stand up.

Mr. Ward: We object to that.

Mr. Stafford: I insist that we can go ahead.

Mr. Stein: We object upon the ground that this witness has testified he did not know who was there.

The Court: Proceed with the question.

Mr. Stafford: I have requested Mr. Unger to stand up.

The Court: The request will be allowed.

Q. Did you see Mr. Unger on that date at the time of the holdup? A. I didn't see his face. I just saw a dark complexioned fellow running away.

Q. When you signed this statement, William, didn't you say, "A short time before nine o'clock this morning"—

Mr. Ward: We object to the question being asked as referring to a statement. This witness has said he had been seen by no one and

I think if your Honor will permit me to cross-examine him right now.

The Court: I will just on this one question.

Mr. Ward: Have you ever seen anybody connected with the defendants in this case at all in your life, I mean the lawyers or anybody coming from them?

The Witness: No.

Mr. Ward: Has anyone ever come to you as saying they came from the men accused of this crime?

The Witness: No, sir.

Mr. Ward: We object to any question based upon that statement as it is an attempt to get into evidence something that statement may contain and get it in in an improper way.

The Court: Proceed.

Defendants except. Exception allowed and signed and sealed accordingly.

JOS. A. DELANEY,
Judge.

Mr. Ward: May I note that counsel is now reading from statement without asking the witness any questions, and has read from that statement.

Mr. McGinnis: We make the further objection to it on the ground that it is an attempt to impeach their own witness.

The Court:

Defendants except. Exception allowed and signed and sealed accordingly.

JOS. A. DELANEY,
Judge.

Q. Didn't you say in this statement you signed in the police department, the first page of which is signed

with your name and the second page, which is also signed with your name, that "I recognize the man who was just presented to me at the detective bureau as one of the three men that participated in the holdup and was unable to get into the bandit's machine and I am positive it was him." Did you read that when you signed it? A. Yes, sir.

Q. Was it true? A. No.

Q. Why did you sign it? A. They told me to sign it.

Q. Who did? A. That fellow.

Q. What fellow? A. That one.

Q. Captain Mosley, stand up. Captain Mosley directed you to sign it? A. No, sir.

Q. How many times did you read this statement before you signed it? A. Once.

Q. Why did you sign something that wasn't true? A. I told him after he printed it, after he wrote it, I told the man who was typewriting it I saw a side view of the man running but didn't see his face.

Q. You signed the second statement? A. Yes, sir.

Q. Is that your signature? A. Yes, sir.

Q. Did you read that before you signed it? A. Once.

Q. Was it true what you say in there?

Mr. Ward: I object, representing the two defendants, to the reading of this paper on the ground that this is impeaching the State's own witness.

Objection overruled.

Defendants except. Exception allowed and signed and sealed accordingly.

JOS. A. DELANEY,
Judge.

Q. "Number three I identify as the man in the hall." Is that true? A. I saw a man running but that is all I told him. I saw a man running.

Q. You didn't say, "I identify him as the man in the hall." A. No.

Q. Is the officer in court who asked you these questions? A. It was the typewriter.

Q. Is Mr. Riker in court? A. No, that is not the man.

Q. How long have you lived in Paterson? A. About a year.

Q. Where did you come from? A. Trenton.

Q. Was it Detective Lord? A. No, he was from the newspaper company.

Q. A newspaper reporter? A. Yes, sir.

Q. Did he typewrite this? A. I don't know but he was one of them that signed it, yes, sir.

Q. Didn't you sign both? A. Yes, sir, he told me to sign it.

Q. Who? A. This fellow.

Q. Is he in court today? A. I don't see him.

Q. Describe him to the Court and jury? A. He sat down at the typewriter and asked me questions and I answered him and he typewrote it. I answered him I seen a fellow running but couldn't describe his face but I described his clothes.

Q. After it was typewritten you read it and signed it? A. Yes, sir.

Q. Did you consider it was true then? A. I considered everything but the way he asked me if I had seen his face and I told him I didn't see his face, I saw a side view.

Mr. Ward: This statement refers to Mr. Unger.

Mr. Stafford: Yes.

Q. You don't refer to Mr. Karp? A. No.

CROSS-EXAMINATION by Mr. Ward:

Q. I want to first ask you if from the time you saw this affair anybody ever came to you or talked to you for these defendants, I mean Karp and Unger?

Q. So far as you know the defendants in this case never even knew you were going to be a witness? A. I don't know about that.

Q. Did you sign these statements? A. Yes, sir.

Q. And then this morning before going on the stand you were taken by Captain Mosley to that room? A. Yes, sir.

Q. With the door locked? A. Yes, sir.

Q. You and he alone? A. Yes, sir.

Q. Just before you went on the witness stand? A. Yes, sir.

Q. As a matter of fact you never truthfully identified any of these men? A. No, sir.

Q. You were twenty feet away? A. About twenty feet.

Q. Before court you were taken in another room by Keppler? A. No.

Q. By another police officer? A. With Mr. Mosley.

Q. I mean before that this morning? A. No, sir.

Q. Do you know the office of Mr. Mahoney around the corridor here? A. No, sir.

Mr. Stafford: I object to this question. The State is not bound by any attempt by anybody else.

Q. Do you know the office that is around the corridor here, around the end of the building, towards the end of the building, or the side of the building? A. I was not in there.

Q. Before you went alone with Captain Mosley this morning were you not alone with others or with Captain Mosley? A. Another man was there.

Q. Now in this holdup you were about twenty feet away from where this occurred, were you not? A. Yes, sir.

Q. You saw the man who had the satchel? A. Yes, sir.

Q. And you saw someone run up and grab the satchel and run away from him? A. Yes, sir.

Q. Then a man ran back to the car? A. Yes, sir.

Q. Then you saw another man run up with a pistol? A. Yes, sir.

Q. Then you saw another man run away? A. I saw a man run after the car.

EDGAR TAYLOR, sworn for the State.

Direct-examination by Mr. Stafford:

Q. On the seventh of March, 1925, do you recall anything unusual happening in the morning about eight-thirty or nine o'clock? A. There was a lot of commotion.

Q. Where were you? A. At the driveway about one-third up the block.

Q. Did you see any of this commotion yourself? A. Yes, sir, there were two or three cars running up the street, several people running in the direction in which the cars were going.

Q. Did you see anything else? A. That is about all I saw there.

Q. At any other place? A. After I was going up Fulton Street and when I got to the corner I saw a man come out of Harrison Street all out of breath and was going to ask him what was the matter, but with that I thought to myself I won't interfere with it.

Q. Where did he go? A. Down Summer Street.

Q. Did you see that man again that morning that you saw all out of breath? A. Yes, sir.

Q. Where? A. In the police station.

Q. Do you know how he was dressed when you saw him in the beginning? A. To the best of my recollection he had on a brown overcoat and a cap.

Q. Is he in court today? A. Yes, sir.

Q. Where? A. Right there.

Q. Put your hand on him, please? A. This is the man.

Mr. Ward: Your Honor can now see that this evidence does not have any reference to Mr. Karp.

The Court: The jury understands it.

Mr. Ward: I want the jury to understand that, that that is why we don't cross-examine him. I also wish to put upon the records that this witness identified Mr. Unger. He placed his hand upon the shoulder of Mr. Unger and did not identify Karp.

CROSS-EXAMINATION by Mr. Stein:

Q. Were there other people running? A. Yes, sir.

Q. How many? A. A number of them.

Q. How many? A. That I don't know.

Q. More than ten? A. I couldn't say that.

Q. More than two? A. Yes, sir.

Q. More than five? A. I don't know. I imagine about that.

Q. All running in the same direction that this man was running and some behind him? A. I didn't say I identified him as running after that happened.

Q. When you got to the police station where were you taken? A. Into one of the private rooms.

Q. Who took you there? A. When I got there they said, "Come into this office."

Q. When you got into the office whom did you find there? A. Several people, the police officers and several detectives.

Q. And Mr. Unger? A. Yes, sir.

Q. There were nobody else in that room besides the police officers and Mr. Unger? A. And myself.

Q. What was said to you? A. "Is this the man that you saw running?" and I looked him over and almost before I could say anything he said, "Yes, I am the man."

Q. You don't know where he came from? A. He came out of Harrison Street.

Q. Outside of coming out of Harrison Street you don't know where he came from? A. No.

Q. Do you know where he was bound for? A. No.

Q. He passed you very closely? A. Yes, sir, about as far as you are to me.

Q. Did he have any gun in his hand? A. No, sir.

Q. You were on the verge of asking him something? A. He turned the corner so abruptly and so out of breath I thought there was something the matter.

CORNELIUS HARTLEY, sworn for the State.

Direct-examination by Mr. Stafford:

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

Q. Where were you on duty on the seventh of March? A. I was on my way to work.

Q. Where were you in the morning? A. What time in the morning?

Q. About eight-thirty where were you? A. About eight-fifteen I was on my way to Police Headquarters.

Q. Where do you live? A. On Butler Street off River Street.

Q. Coming down to Police Headquarters what road did you take that morning? A. A friend in a car asked me if I wanted to ride down with him and I got in and we went up straight to Fulton and right at Fulton a lot of people were gathered all excited and I stopped the car and said to the driver, "There must be a fire or something," and as soon as they saw a uniform some of the people rushed up and told me there had been a murder and the man who committed it just ran through there.

Mr. Ward: I ask that that be stricken out.
The Court: Strike it out.

Q. As a result of having heard something from the citizens what did you do? A. Inquired what way the man had run.

Q. What did you do? A. Well, nobody had seemed to follow him and I went up that way in this car.

Q. Whose car were you in? A. Louis Pearl's. When I got up there there didn't seem to be any excitement so we turned around and went down by the

Diamond Coal Company and we picked a man up coming back and he was Mayor Rhodes of Hawthorne and he told me—

Q. You had a conversation with him? A. No.

Q. As a result of his talking with him what did you do? A. I asked him—

Q. What did you do? A. Told him to get into the car.

Q. Where did you go? A. We went up Fulton to Summer and on our way up Summer, on the way up Summer we came across a man going in the opposite direction and we asked him—

Q. Don't repeat the conversations, what did you do? A. Continued up Summer Street and turned left on Summer Street, passed Lawrence and Montgomery right near Lafayette Street, we saw a fellow going down and Mayor Rhodes identified him, he said, "That is the man."

Mr. Ward: I ask that that be stricken out.
The Court: Strike it out.

Q. What did you do? A. We got to this corner of Lafayette and Summer Streets and the man turned the corner right before we did, maybe a few yards, and by the time we turned the corner Mr. Unger was about fifty feet around the corner and as soon as the car stopped alongside of him he threw his hands up without turning around or anything and I said, "What is the idea of putting your hands up."

Q. Who said that? A. I did.

Q. What did he say? A. I said, "You didn't do anything, what did you put your hands up for?" He said he had had a fight with a man down on Paterson and Fulton Streets and he had run up there, he could hardly talk, the way he was breathing.

Q. Describe to the jury what his physical condition was when he was apprehended? A. His overcoat he had was brownish, his hat was pushed back and he seemed to be perspiring and could hardly speak the way he was breathing and before he turned around at all he put his hands up in the air. We stripped his overcoat off and searched him for a gun, which a citizen had told me he had.

Q. What kind of an overcoat was it? A. A tan overcoat.

Q. What kind of a hat? A. A cap.

Q. You turned him over to the police? A. After I was sure he had no gun I ordered the man in the car, I ordered him to drive back, and on the way back I spoke to the citizen who told me about it and he said that looked like the man.

Mr. Ward: I ask that that be stricken out, what the citizen told him.
The Court: Strike it out.

A. We brought him back to Paterson Street and brought him in the shirt factory office to have him identified, at that time I understood it had been a hold-up and not a murder, and I brought him over to Mr. Vreeland, who was still there bleeding, and asked him if this was the fellow and he said, "I don't think that is the fellow. I am not sure."

CROSS-EXAMINATION by Mr. Stein:

Q. You have no doubt arrested people charged with crime before? A. Yes, sir.

Q. You have chased men also before? A. Yes.

Q. When you first saw this Unger running how far away was he from you? A. When I first saw him he was maybe a block and a half.

Q. I am speaking when you got in close contact with him? A. Before he turned the corner?

Q. Just before he was apprehended? A. He turned the corner about fifty feet ahead of me.

Q. When he turned the corner he was fifty feet in front of you? A. Yes, sir.

Q. Walking slowly? A. Walking fast.

Q. You didn't know whether he had a gun or not? A. No.

Q. You drove up to him? A. I didn't drive the car, I was in it.

Q. Did you pull your gun out? A. Certainly.

Q. Before he saw you? A. No.

Q. He was walking with his back towards you? A. Yes, sir.

Q. And your automobile drove up in front of him? A. No, alongside of him.

Q. Did you say anything to him as the car stopped? A. No, I didn't say anything, I didn't say anything, just walked over to him.

Q. You want the jury to believe you didn't pull your gun as soon as you heard a murder had been committed? A. No, he told me later he saw me in the glass of a saloon.

Q. Did he put his hands up while walking forward? A. No.

Q. Was he facing you? A. No.

Q. Sideways? A. Walking in the same direction.

Q. You thought he didn't see your gun? A. I didn't think so, but he told me he saw it in a mirror. He said that when I asked him what he put them up for, and he said, "I didn't want to get hurt."

Q. Mr. Pearl was there? A. Yes, sir.

Q. When you got back to the mill Mr. Vreeland was there? A. Yes, sir.

Q. And the other two gentlemen in the truck? A. I didn't see either one of these.

Q. Who was there besides Vreeland? A. Quite a number of employees.

Q. You brought him there to be identified? A. Yes, sir.

Q. And Mr. Vreeland said he is not the man? A. He said, "I don't think he is the man. I am not sure."

Q. You brought him back to Police Headquarters? A. Yes, sir.

Q. And you don't know what took place there, do you? A. Yes, sir, I stayed about an hour.

Mr. Ward: I would ask your Honor to direct the jury that all this evidence is against Unger and not Karp.

CROSS-EXAMINATION continued by Mr. Stein:

Q. At the time you apprehended Unger he told you he was standing in front of a saloon on the corner of River and Paterson Streets? A. He told me he was coming past a saloon.

Q. And that someone had run out of the saloon and bumped into him? A. No, someone came out of the saloon and looked at him and said, "What are you, a wise guy?" and Unger had slapped this fellow in the face.

Mr. Ward: May I ask your Honor to direct the jury's attention that this evidence is against Unger and not Karp.

The Court: The jury understands that it is not to consider any of the evidence except against whom it is directed.

LOUIS PEARL, sworn for the State.

Direct-examination by Mr. Stafford:

Q. You are the young man who was driving Officer Hartley that morning? A. Yes, sir.

Q. Tell the Court and jury what you saw? A. I was on my way coming down from Riverside when I saw Mr. Hartley, who was waiting for a trolley car, and offered my assistance to take him down to work. When I came down River Street and turned into Paterson Street and when we reached Fulton Street a man with white sleeves came out and said there was just a murder committed.

Q. Don't repeat conversations. Just tell what you and Officer Hartley did? A. We heard there was a murder committed and Mr. Hartley asked me to run up the street as far as the corner and we didn't see any excitement and we turned back and then we stopped the car and he happened to know a man but I don't know.

Q. Where did you go? A. Up Fulton and then into Summer and then he told me to run to Lawrence Street and we noticed the fellow running there.

Q. Did you see the fellow? A. Running.

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

Q. Where was he? A. In my car.

Q. Where was he when you first saw him? A. On Warren Street.

Q. Walking or running? A. Walking quite fast.

Q. Is he here in court today? A. Yes, sir.

Q. Where is he? A. Right there, Mr. Unger.

Q. What did you do with him when the officer apprehended him? A. Yes, sir.

Q. Where was he brought? A. Why we came back to the place where he stated he had had a fight

and we came there by the corner and saw a mob there and found out it was a holdup and took him out of my car and then I left.

CROSS-EXAMINATION by Mr. Stein:

Q. Were you present when Unger was brought there for identification? A. They brought him in my car.

Q. Did you go inside? A. No, sir.

Mr. Ward: I would like also to have this understood that this witness identified Unger and not Mr. Karp.

The Court: The jury has the testimony.

ARTHUR RHOADES, sworn for the State.

Direct-examination by Mr. Stafford:

Q. You are the mayor of Hawthorne? A. Yes, sir.

Q. On March 7th, 1925, do you recall anything unusual happening in the morning of that day? A. I recall I was walking down Fulton Street towards the railroad and when I got to the end of the Hall mill I saw a party run through the tunnel and run up and he went between the Katz Brewery and the bottling place on Harrison and so I watched him and saw him pass the open space and I saw him in the middle of the road, and I was wondering what the trouble was and I saw him pass down Summer Street again. I was looking up Fulton Street and saw Officer Hartley coming along and I stopped him in the middle of the road.

Q. What happened? A. I told him—

Q. Don't repeat the conversation, what happened? A. Oh, I understand. I got in his car and directed him up Fulton Street and down Summer Street, to Lafayette Street and when we got up to this party he was all out of breath and he immediately threw his hands up in the air.

Q. Did you know whether or not the man who threw up his hands was the same man you saw running up the street? A. Yes, sir.

Q. Do you remember how he was dressed? A. Brown overcoat and a sort of a tan peaked cap.

Q. Is he in court today? A. Yes, sir.

Q. Is he in here now? A. Yes, sir, this is the man here (indicating Unger).

CROSS-EXAMINATION by Mr. Stein:

Q. Where did you see him? A. Running through the tunnel.

Q. The tunnel is how far away from River Street where this robbery took place? A. About a thousand feet.

Q. He had gone under the tunnel when you saw him? A. No, he was running sideways and it seemed as though he was in distress.

Q. The man was running sideways? A. That is to my sight of him.

Q. He was running straight ahead? A. Not straight.

Q. With his back towards you? A. No, sideways.

Q. What side of the street were you on? A. The south side of Fulton Street.

Q. He was about a thousand feet away from you? A. I would judge one hundred and fifty feet away from me.

Q. And you recognized him then? A. No, I did not recognize him then, but I took particular notice of him.

Q. What do you mean? A. I took particular notice of his dress, etc.

Q. You saw a man running up this street with a tan overcoat and cap? A. A brown overcoat and cap.

Q. And after, when you finally found this man with Officer Hartley, it was the brown overcoat that made you think it was the man? A. No.

Q. What was there about him that you saw so clearly? A. His physical condition was noticeable.

Q. What was his physical condition? A. It seemed as though he was in distress and has run quite aways.

Q. If you had found another man in distress from running with a brown overcoat and cap that would have been the man? A. No.

Q. What other marks were there about him? A. His general appearance which I judged.

Q. From the back? A. The side.

Q. You want this jury to believe he was running away from the scene of the hold up and he was running sideways? A. To my side view.

Q. Which side of the street was he on? A. The right-hand side.

Q. Of Fulton Street? A. I didn't see him on Fulton Street. He was running through the tunnel to Straight Street.

Q. He had gone off Fulton? A. Yes, sir.

Q. Fulton is the first street from the scene of the holdup where he would have run? A. I cannot say that.

Q. Fulton Street runs in at that particular point? A. Yes, sir.

Q. Fulton Street runs into Straight at the tunnel? A. No.

Q. You didn't see him on Straight Street? A. Just as he was leaving the tunnel, a side view of him.

Q. Did he turn to the right or left? A. He kept on going up Straight Street.

Q. When he passed the tunnel? A. Yes, sir.

Q. You saw him sideways running up Straight Street? A. No, that is only my first impression.

Q. Did you make any statement to the police in this matter? A. No, I have never been asked any questions at all.

Q. Since when? A. Since the morning I was down there.

Q. Up to today? A. No.

Q. Did you get a subpoena? A. Yes, sir.

Q. When? A. It was left at my home yesterday.

Q. By whom? A. One of the court attendants.

Q. You have spoken to nobody this morning? A. To no officer connected with it.

Q. Whom have you spoken to about the case? A. I have not had any questions asked me.

Q. Whom have you spoken to about the case this morning? A. No one that I remember.

Q. You said you had spoken to none of the officers? A. I might have spoken a few words to them.

Q. Did you speak to anybody connected with the prosecutor? A. No.

Q. You were not in there? A. I was in the prosecutor's office.

Q. You spoke to somebody there? A. Yes, sir, I understood the police—

Q. You spoke to somebody connected with the prosecutor's office? A. Yes, sir.

Q. And you have never signed a statement? A. No, sir.

RE-DIRECT EXAMINATION by Mr. Stafford:

Q. Who did you speak to in the prosecutor's office? A. Yourself.

Q. The assistant prosecutor? A. Yes, sir.

CROSS-EXAMINATION by Mr. Ward:

Q. All the evidence you have given is, of course, connected with Mr. Unger and you know nothing about Mr. Karp? A. Nothing at all.

SAMUEL SCHWAAB, sworn for the State.

Direct-examination by Mr. Stafford:

Q. Where do you live? A. One hundred and ten Twelfth Avenue.

Q. How old are you? A. Twenty.

Q. Where do you work? A. The service station on the corner of Paterson and Fulton Street.

Q. Did you work there last March? A. Yes, sir, I did.

Q. Were you there between half-past eight and nine o'clock on the morning of March 7th? A. Yes, sir.

Q. Did you see anything unusual? A. Yes, sir.

Q. What did you see? A. I was in the store sweeping the store at the corner of Paterson and Fulton Street, sweeping the store, and I saw a fellow pull up for oil on the Paterson Street side and I went out and as I was looking across the street I saw a fellow's hands in the air and I knew somebody was being held up and I was crossing from the Ful-

ton Street side and the next thing I knew I saw this fellow get up and run up the street chasing another fellow and hollering, "Help, police." Later on Officer Hartley came down and I didn't know who was held up except later in the day, he had a fellow in the car driving with him and another man and this fellow chasing him alongside of him and he asked me if I recognized this fellow and I said I didn't know, I couldn't recognize him and this man alongside of me said he did recognize him.

Q. How was this man dressed? What street did he run up? A. Up Fulton Street.

Q. With reference to the Manhattan Shirt Co.? A. If that table is the shirt works Fulton Street is up this way.

Q. How was the man dressed? A. He had on a tan overcoat and a cap.

Q. What kind of a cap? A. I knew he had on a cap but I couldn't tell you what kind.

CROSS-EXAMINATION by Mr. Stein:

Q. Who was chasing him? A. This fellow that got up was chasing another fellow up Fulton Street.

Q. How many more people were chasing him? A. When I seen him only this one fellow was chasing him.

Q. Didn't no other party run after this fellow that was running after him? A. Not that I seen.

Q. Did you come outside? A. I came outside of the door.

Q. I thought you were sweeping the store? A. Before the customer pulled up.

Q. What was the customer that caused you to come outside? A. He came outside when a fellow

pulled up and I think he wanted oil and then I looked across the street and saw this fellow holding his head and really the next thing somebody had put his hands up and I turned to see who it was and the fellow runned across the street and by the time I got around there he was running up the street.

Q. Were you subpoenaed here today? A. Yes, sir.

Q. Who did you speak to about the case? A. I said, "Holy gee, here comes Wednesday and a busy day."

Q. Did Officer Hartley bring the man down to you? A. Not to me but to the store. He stopped there with the car.

Q. He showed him to you and asked you if you recognized him? A. And I said I didn't.

Q. At the time he still had the same overcoat and cap on? A. I only seen him from the back.

Q. How far away was he? A. Maybe a half a block.

CROSS-EXAMINATION by Mr. Ward:

Q. You also have testified only in connection with this Mr. Unger? A. I don't know if it was him or not but he was identified as the fellow.

Q. The man that was brought back by Mr. Hartley? A. After, yes.

Q. Where is your store with reference to the corner of Paterson Street? A. Say that desk is the Manhattan Shirt Works and River Street runs this way, my store is right here.

Q. When this man was getting gas from you did this man have to go up Fulton Street? A. He had to go past my store.

Q. Did he pass your store? A. He must have.

Q. Did you see him? A. He was already past my store and this fellow chased him.

Q. Was this man here the one that wanted gas? A. No.

Q. How far away was he when you saw him? A. Just about in the middle of the block.

Q. How far from you? A. About a half a block.

JOHN BREEN, sworn for the State.

Direct-examination by Mr. Stafford:

Q. Where do you live? A. Hawthorne.

Q. What is your business? A. Carpenter.

Q. Do you recall where you were on the morning of March 7th, 1925? A. I think I do.

Q. Where were you? A. At Beider's garage on Harrison Street.

Q. Did anything unusual happen while you were at that garage? A. I seen a man running up past a mill and he came around the corner of Straight Street and ducked around one of the cars there and then went in on the sidewalk and ran along the mill and down the other street. I can't tell you the name of the street but I can identify the man.

Q. How was he dressed? A. He has a brown overcoat on.

Q. Any hat? A. A cap.

Q. Is he in court today? A. Yes, sir.

Q. Where is he? A. I can point to him.

Q. Come down and put your hand on him, you might point at one of the lawyers? A. Him (indicating defendant Unger).

Q. How far from the Manhattan Shirt Works was this garage where you were standing? A. I should judge about three blocks.

Q. Did you see him again? A. Not after that but I seen him here this morning.

Q. Is this the man you saw running? How far away from you was he? A. He passed within ten feet of me. I was going to stop him but was afraid of him after I saw the other man behind him.

Q. How far was the other man behind him? A. About 25 feet.

CROSS-EXAMINATION by Mr. Stein:

Q. Where is your place of business? A. Hawthorne.

Q. What were you doing down there? A. Having my car fixed.

Q. Where? A. At Beider's garage.

Q. Where is that garage? A. On Harrison Street.

Q. How far is that from River Street? A. I should judge about three blocks.

Q. Is that the first time you saw this man running? A. Yes, sir, the first time.

Q. Somebody was chasing him? A. Yes, sir, there was a man chasing him.

Q. Do you know who he was? A. Probably I could identify him but I have not seen him since.

Q. Was he the only man chasing him? A. Yes, sir, that I seen at that time.

Q. There was no crowd chasing him? A. He was alone and this man was alone.

Q. This man chasing this fellow, Unger, three blocks away from the scene of this crime? A. Twenty feet behind this man.

Q. Three blocks away? A. No, they passed me within ten feet.

Q. Your place is three blocks away from the Manhattan Shirt Co.? A. What place?

Q. Beider's garage? A. Yes, sir, where I was standing.

Q. Where you say this man was running? A. Yes, sir.

Q. The place where you saw this man running was three blocks away from the Manhattan Shirt Co.? A. I saw them coming around the corner from Straight Street and I saw this man pass me within ten feet and another man behind him about twenty feet and he ducked around a car standing there off and then on the sidewalk and ran up along the mill and down towards the next street.

Q. Whom did you tell this story to first? A. Myself.

Q. Do you talk to yourself? A. I said that to myself right now.

Q. Who was the first person you told that story to? A. This is the first I ever said it.

Q. You didn't speak to the police about it the day it happened? A. No.

Q. Or to anyone? A. No.

Q. Let's understand this so you and I won't have a misunderstanding. When this happened in March there you didn't go to Police Headquarters? A. No.

Q. Did you go to the Manhattan Shirt Co.? A. No.

Q. Did you ever go to anybody that day? A. From there I went home.

Q. Did you tell it home? A. I told it to my mother I seen a man running.

Q. Who did you tell it to besides your mother?

A. Is that in the case? I think what I seen I should say and not any more.

Q. Who else did you tell it to outside of your mother? A. Why, no one.

Q. Have you spoken to anyone connected with the Police Department or Prosecutor's office of the county with respect to this story? A. Not at all.

Q. This thing happened on March 7th? A. Yes, sir.

Q. And you are in court this morning telling the story for the first time outside of having told it to your mother? A. Yes, sir.

Q. Did you get a subpoena? A. Yes, sir, last night.

Q. Who brought it? A. I don't know.

Q. Was it left for you? A. I don't know.

Q. You can't tell us how the Prosecutor's office knew you were a witness? A. The police officer in court he said, "Did you see this man running?"

Q. When was this? A. The same day it happened.

Q. You did speak to somebody about it? A. To that officer.

Q. Well he is somebody? A. I guess he is.

Q. Get this thing straight, can't you? A. I spoke to some police officer on the day it happened, yes, sir.

Q. When a moment ago you said you didn't speak to anybody you forgot? A. I forgot about the officer.

Q. You understood the question? A. I didn't think about that just then.

Q. Outside of this officer whom did you speak to on the day you say you saw this. Did you speak to anybody else? A. Yes, sir, after I left there I told my mother. I said I think there is something happened.

Q. Outside of this officer that you forgot a moment ago and outside of the story you told home who else have you told? A. No one.

Q. You don't want time to think again to find out if there was anybody else you told this story to up until this morning. You don't need any time to think it over today? A. No, just what I said.

Q. Do you know this gentleman? A. Yes, sir.

Q. Did you speak to him this morning? A. No.

Q. At court here? A. No.

Q. Less than half an hour ago? A. No, I never seen him before, yes, I seen him before.

Q. Where did you see him? A. This man was chasing this fellow, he looks something like him (indicating Mr. Drew).

Q. Are you as positive this is the gentleman who was chasing this fellow as you are this is the fellow being chased? A. Yes, sir.

Q. Mr. Drew, the Prosecutor's detective was chasing him on March the seventh? A. He was a man built exactly like he is and his face and features were almost exactly like him, but I identified that fellow by his features.

Q. By his features? A. Yes, sir.

Q. Who was the policeman you spoke to on the day of this happening? A. I don't know his name.

Q. Mr. Hartley? A. I think that is the name.

Q. Mr. Hartley, stand up? A. Yes, sir, he took my name as a witness, I think.

Q. Let's get this straight. Is it not a fact you were taken outside in the hallway this morning? A. Yes, sir.

Q. By whom? A. By some man out of here.

Q. By a detective? A. I don't know.

Q. Did you ask him his name? A. No.

Q. What did he say to you? A. Asked me what I knew about the case.

Q. Didn't he tell you it was absolutely necessary for you to identify Unger this morning? A. No, he says, "Just tell me what you saw."

Q. Do you see him in the court room. Wasn't it this Mr. Drew? A. Yes, sir, I think that is the man.

Q. You think it is? A. I can think, can't I?

Q. Mr. Drew is the gentleman who spoke to you in the corridor? A. Yes, sir.

Q. There is no doubt about that, is there? A. No.

Q. Didn't you say a few moments ago you hadn't spoken to Mr. Drew about it? A. Probably I did.

Q. Did you say a few moments ago you didn't speak to Mr. Drew about it? A. Everybody knows that when they see me go. If you got eyes you can see.

Q. Did you not testify a few moments ago you had not spoken to Mr. Drew? A. I don't know if I did.

Q. Did you testify you had not spoken to this man? A. No, I didn't.

Q. You had spoken to him this morning? A. Yes, sir.

Q. What did he say to you? A. "What do you know about the case," he says, "Then we will call you if you know anything about it." I says, "I do know something about the case."

Q. Did he take you outside? A. He didn't want to talk in here.

Q. How long were you outside? A. Half a minute.

Q. It is not by chance a half hour? A. No.

Q. Did he tell you who this man was sitting here? A. No, I identified him this morning.

Q. Did he tell you who this man was sitting here? A. No, I had not seen him yet.

Q. You say you identified him this morning? A. Yes, sir, as soon as I came in here.

Q. How did you know he was being tried here? A. I seen him before and I imagined he was being tried.

Q. Who did you tell you identified him? A. I didn't tell anybody.

Q. You walked in here yourself? A. No.

Q. Were you in the Prosecutor's office before you came into the court room? A. No.

Q. Are you sure of that, too? A. Yes, sir.

RE-DIRECT EXAMINATION by Mr. Stafford:

Q. Who was the man with you at the time you saw this man running up Harrison Street. Do you know Mr. Beider? A. Yes, sir, he was in the garage working.

CROSS-EXAMINATION by Mr. Ward:

Q. Whatever evidence you have given has been with reference to the gentleman you have identified whose name is Unger, you know nothing about Mr. Karp? A. No.

PETER BEIDER, sworn for the State.

Direct-examination by Mr. Stafford:

Q. Are you the gentleman referred to by Mr. Breen? A. Yes, sir.

Q. Were you at your garage on the morning of the seventh of March, 1925? A. Yes, sir.

Q. Did you see Mr. Breen there that day? A. Yes, sir, he brought his car down just about half an hour before this here running match was going on.

Q. Did you see anything unusual? A. All I see I was outside and I heard somebody hollering, "Stop," and I turned around and saw it was the saloon keeper down on the next corner. He was chasing a man and I thought it was just part of a squabble about a saloon fight, and I thought he was just chasing him so I just happened to turn and as I turned around there was two men running, the man running in front, the saloon keeper and another man and there were a couple of dark cars standing there and the head fellow stopped and then the saloon man stopped, he wouldn't go any further, he commenced to say something but I couldn't understand anything he was saying so then the man that stopped by the dark car, he turned around and ran up the street again.

Q. Did you see how he was dressed? A. He had a brown overcoat and a cap on.

Q. How near to you was he when he passed you? A. About six or seven feet.

Q. Six or seven feet away from you? Would you know him if you saw him again? A. Yes, sir.

Q. Do you see him in court today? A. Yes, sir.

Q. Where is he? A. This gentleman right down here.

Q. Put your hands on him, please? A. This man here (indicating Unger).

Q. After they had passed you did you follow them or do you know where they went? A. No, sir.

Q. You don't know anything more about them? A. He ran around the car and then came back up on the street again and then the saloon keeper he turned around and went back.

Mr. Stein: No cross-examination.

CROSS-EXAMINATION by Mr. Ward:

Q. All the evidence you have given is with reference to the man upon whose shoulder you put your hand? A. Yes, sir.

Q. You don't know anything about Mr. Karp? A. No.

ARTHUR WALTON, sworn for the State.

Direct-examination by Mr. Stafford:

Q. Where do you live? A. Five hundred and eighty-nine First Street.

Q. Were you working on the seventh of March, nineteen hundred and twenty-five? A. Yes, sir.

Q. Do you recall where you were on the morning of that date between eight-thirty and nine o'clock? A. In the window of one of the buildings of the Manhattan Shirt Company.

Q. Where does this window face, what street? A. The corner of Lawrence and River, facing River.

Q. Did anything unusual happen while you were at the window? A. I was at the window looking in the mill yard and at the same time I looked up the street and saw our truck drive up to the main entrance and

at that time a touring car which I would describe as a Studebaker was coming up on the car tracks and stopped alongside and just a little past the end of our truck and was standing there and two got out and one was very small. Within a period of not more than two minutes, maybe not that long, someone ran from in front of our truck and got on the touring car facing the opposite direction with a satchel. I was able to see both cars but not the sidewalk.

Q. Is that all you saw? A. I saw the touring car drive away and took the number.

Q. Did you take the number? A. Yes, sir.

Q. Did you see anybody get into the touring car? A. The person with the satchel which seemed to be dressed with either a short overcoat or mackinaw or a long sweater, but it seemed to be a short overcoat.

Q. In what direction did the automobile go? A. Towards Riverside.

No cross-examination.

At this point a recess was taken until 2 P. M.

FRANK X. GREAVES sworn for the State.

Direct-examination by Mr. Stafford:

Q. Is William Starufogel in court? Do you see that young man, Mr. Greaves? A. I do.

Q. I show you a piece of paper and ask you if you have ever seen it before? A. Yes, sir; I have.

Q. Do you know who signed it? A. That lad.

Q. In whose presence? A. In my presence and Detective Sergeants Lord and Keppler.

Q. Before he signed it do you know whether or not

he knew the contents of it? A. He read it and it is just as he said it.

Q. Who typewrote the statement? A. I did.

Q. Who made the statement? A. He did.

Mr. Stafford: I offer the statement in evidence.

Mr. Ward: That does not refer to Karp at all.

Mr. Stafford: No, it does not refer to Karp.

Mr. Stein: We object to the offering in evidence on the ground that the witness testified that the statement made in that exhibit was not true and the statement offered at this time would not be permissible.

The Court: I will admit it.

Defendants except. Exception allowed and signed and sealed accordingly.

JOS. A. DELANEY,
Judge.

Statement admitted in evidence and marked Exhibit S1 for the State.

Q. When he made the statement did he describe at that time to what man he was referring to? A. Mr. Unger.

Q. Did he in court? A. I cannot say.

Q. Who were present when this statement was taken besides yourself? A. Detective Sergeants Lord and Keppler.

CROSS-EXAMINATION by Mr. Stein:

Q. Are you connected with the police department? A. I am not. I am a special police officer.

Q. How did you come to take the statements of a witness? A. I have a legal right to do it.

Q. Outside of your legal right how did you come to be in police headquarters? A. I am a police reporter of the "Paterson Evening News."

Q. Among your duties as police reporter of the "Paterson Evening News" do you consider it to take the statements for the police a part of your duties? A. No more than I would volunteer to typewrite for anybody.

Q. Were they taken during the day or night? A. Eleven o'clock in the morning.

Q. The police department has a regular typewriter, Mr. Riker? A. I don't know, I wasn't in his room.

Q. You are in police headquarters every day? A. Yes, sir.

Q. You have seen statements taken before? A. I have.

Q. Who have you seen take them? A. Most every detective.

Q. Did you ask the boy any questions? A. Yes, sir; I have talked to him.

Q. Then you wrote it down in what manner? A. As he told it.

Q. This is the boy's phraseology? A. Yes, sir.

Q. He used the word "vicinity"? A. If it is there he did.

Q. When he said, "Shortly before nine o'clock," he stopped and you typewrote? A. No, I could typewrite as fast as he could talk.

Q. You didn't take his dictation? A. Is it on there?

Q. Did you take it? A. If it is on there I did.

Q. If it is not on here did you? A. No, if it is not on there I did not.

Q. At whose suggestion did you take this? A. At the suggestion of Detective Sergeants Lord and Keppler, I had turned the boy over to them.

Q. Where did you get him? A. At the time of the holdup I was at police headquarters and had my car and drove Detective Sergeants Lord and Keppler down to the Manhattan Shirt Mills. I was standing on the corner while they were searching for something around there and I heard this boy telling some other boys he had witnessed the holdup.

The Court: Where did you get him?

The Witness: At Paterson and River Streets.

Q. In the police automobile? A. No, standing on the corner.

Q. Did you go down in the police automobile? A. No, I went down in my own.

Q. Did you have the detectives with you? A. Yes, sir.

Q. And you brought the boy from there back with the detectives? A. Yes, sir.

Q. Where was Unger? A. He was at police headquarters.

Q. When that statement was signed where was Unger? A. At police headquarters.

Q. In that same room? A. No, the other room.

Q. Was Unger shown to this boy? A. He didn't have to be.

Q. Was he shown? A. Yes, sir; he was.

Q. When, before or after the boy signed the statement? A. Before.

Q. Unger's name is not mentioned in this statement

is it? A. No, it is not here. The boy did not know Unger's name.

Q. Did you know it? A. No.

Q. Did you ask the man's name that was brought in there? A. No.

Q. How did you know who was brought in? A. I was informed he was brought in at the desk.

Q. No name was known? A. Not to me.

Q. You did not ask? A. No.

Q. That wasn't known for your newspaper story? A. It was.

Q. You had his name for publication in your newspaper that day? A. Yes, sir; five hours later.

Q. Five hours after eleven o'clock? A. After the holdup.

Q. You didn't have it when this statement was signed? A. No, I didn't take it.

Q. You wrote this on the typewriter as quickly as the boy spoke? A. Yes, sir.

Q. Did you see the boy after that? A. He came to me and asked me to keep his name out of it.

Mr. Ward: We object to that answer and ask that it be stricken out.

The Court: This testimony refers to Mr. Unger.

Mr. Stein: Representing Mr. Unger we make the same motion.

Mr. Ward: We object in behalf of Mr. Karp to all of that answer on the ground that it is not at all responsive. The question was "When did you next see this boy?"

The Court: What is the question?

(Stenographer reads question.)

Mr. Ward: Will the other answer be stricken out?

The Court: Yes.

Q. Did you speak to him in reference to his written statement? A. You mean after that day?

Q. No, the day you obtained the statement? A. No.

Q. Did you speak to him today? A. No, I have only seen him three times.

Q. You did not put your name on here as a witness? A. I did not.

Q. It is not on here? A. If it is not on I did not put it on.

CROSS-EXAMINATION by Mr. Ward:

Q. This statement of course was with reference to Mr. Unger alone? A. Yes, sir.

Q. And not with reference to Mr. Karp? A. He described all of them.

Q. This statement was with reference to Mr. Unger, the man at the police station? A. No, the statement was with reference to the entire holdup.

Q. The description he gave of the man he saw was the description of Mr. Unger, who was at the police station?

Mr. Stafford: I object to that. That is not the facts in the case. Counsel has stated it was not with reference to Mr. Karp.

Q. The identification was with reference to Mr. Unger? A. No, the statement, let me get the question from you. You asked me whether or not that statement was made as to Unger?

Q. The identification. A. The personal identification was, not the written identification. Description was made as to all of them.

Mr. Ward: It seems to me in view of the statement of the State. The statement of the

State was this, the statement we admitted in evidence was merely in reference to Unger. Upon that statement we raise no objection. Now it seems to appear it was otherwise and the State, your Honor, has used it. It is not as though this young man had gotten on the stand and testified this morning that Unger was not the man he saw there and not as though this statement was then introduced to neutralize the effect of the evidence he then gave, but merely to show he made some statement at some other time at some other place.

Mr. Stafford: Before the Court passes on that motion. If I have inadvertently made a statement which Mr. Ward takes exception to in which I said it did not refer to his client, I did it with no knowledge that there was a description in the back. Since Mr. Ward has made a motion to exclude that statement I now ask the Court to admit it over his objections by reason of the ground stated previously.

The Court: I will admit it and permit an exception.

Defendants except. Exception allowed and signed and sealed accordingly.

JOS. A. DELANEY,
Judge.

Q. You are a very fluent writer, Mr. Greaves? A. No.

Q. You are not as a newspaper reporter. How—you are not a fluent writer? A. No, just an ordinary writer.

Q. You write more than the ordinary individual? A. Yes, I write considerable.

Q. You consider yourself quite a fluent writer, don't you? A. No.

Q. You stated on cross-examination the following: That this young man, this boy, whom, by the way, did you see on the stand? A. No.

Q. You saw him in the police station? A. Yes, sir.

Q. You know his characteristics from what you observed? A. I only saw him for half an hour.

Q. He talked fluently? A. Not fluently.

Q. He volunteered this information? A. Yes, sir; very much so.

Q. There was no question about it? A. No.

Q. You said there were other men present? A. Naturally there would be other men.

Q. If you could write as fast as he could talk and they could talk why didn't you put down the questions and answers? A. Because at the time he was talking he was telling the story in his own words.

Q. You just stated he was asked certain questions. A. That was prior to the writing of the statement.

Q. Were there any questions asked him while the statement was being made? A. There might have been one or two.

Q. Your recollection is very poor on that? A. Very poor.

Q. You don't know? A. Very good.

Q. Which is true? There were questions asked or not? A. There were many questions asked.

Q. There were many questions asked when this statement was made now you say? A. Your question was whether or not questions were being asked before the statements were made or being asked at the time this statement was being typewritten?

Q. Just exactly. Now, we understand it so the—

was the entire statement made voluntary and continuously or were there questions asked? A. I would say the statement was made voluntarily.

Q. Was it made continuously without any interruptions as the questions? A. I believe whatever questions were asked they may have been asked by me.

Q. Why didn't you put them down? A. Because in a statement I have not seen the questions used.

Q. You don't think that is the most authentic way to get the information desired? A. I say I have never seen it.

Q. What questions did you ask? A. From the time I saw the boy until the time I took the statement?

Q. No, during the time the statement was made. A. The only thing I might have said to the boy was, "A little slower," or "A little faster," when I was up to him.

Q. This young man who you say made this flowery statement—

(Question withdrawn.)

Q. I notice at the head you have noted, "The following is a statement made by William Starufogel in the presence of"— A. You are reading the second page.

Q. That was included in this statement? A. What?

Q. The second page? A. Let me see it.

Q. I am referring to Exhibit S1? A. No, the second page is not included in the statement. The second page is page two of the original statement.

Q. Can you show any continuity, you a newspaper man, any continuity between the statement on page one and page two? A. Why certainly, Mr. Ward. It is the continuance of the statement.

Q. Is not the statement on page one absolutely complete in itself? A. No.

Q. It is not. When you end up with this, "I recognize the man who was just presented to me at the Detective Bureau as one of the three men that participated," and so on, "And was unable to get on the bandit's machine. I am positive that is him." Is that not a complete statement in itself? A. A complete paragraph but not a statement.

Q. He used the words, "bandit's car," or is that one of your newspaper expressions? A. He did.

Q. He used the words "bandit's car"? A. Yes, sir; very clearly.

Q. Do you remember that he said the man who was just presented to him at the Detectives' Bureau? A. Yes, sir.

Q. Is one of the three men that participated in the holdup and was unable to get in the bandit's machine at the time? A. Yes, sir.

Q. That is his exact language? A. It was. He is a high school boy.

Mr. Ward: I ask that that be stricken out.
The Court: Strike it out.

Q. You began your second page, "The following is a statement made by William Starufogel"? A. Yes, sir.

Q. Does that not show that this was another statement? A. No.

Q. Does it not state, "The following is a statement made by William Starufogel"? A. It doesn't show it to be separate.

Q. Didn't you consider that a second statement? A. No.

Q. Why didn't you state that was a continuation of his statement? A. I didn't know you wanted me to.

Q. I am simply asking you your reason, I don't want you to do anything. A. Do you want me to tell you why?

Q. In the second statement you say, "This statement was made after the defendant was warned of his rights," when was that ever said, "And that it might be used against him." This boy was not the defendant? A. No.

Q. Yet you are referring to him on this second page as the defendant? A. No.

Q. Does it not so state that on there? A. Yes, sir; that is a statement form.

Q. You read English, don't you? Is what I have read correct? A. What you say, Mr. Ward, is incorrect.

Q. Is not what I read to you correct? A. On the second page?

Q. "The following is a statement made by William Starufogel. This statement was made after the defendant was warned of his rights, that whatever he said might be used against him." A. That is not filled out at all.

Q. Whether it is filled out, is that not what it states? A. Yes, it states that.

Q. You, with great accuracy, permitted this statement to go in that way? A. Yes, sir.

Q. His name, that is, William Starufogel's name, might be the defendant? A. I did not name him as the defendant.

Q. You permitted it to go in this way? A. The statement went in as you see it.

Q. That was your accuracy in this matter, Mr. Greaves, wasn't it? A. Yes, sir.

Q. Did this young man state to you the printed matter we have here? A. Yes, sir.

Q. Did he state this, whatever was said might be used against him, etc.? Did he say that to you? A. No.

Q. That was one part of the statement that was in this paper that he didn't volunteer to you? A. No, he did not say that.

Q. Did he in his own manner enumerate as you have enumerated here the different incidents? A. The different incidents?

Q. For instance you have here, "I can describe as follows, No. 1"? A. Yes, sir; he said that.

Q. That wasn't a newspaper expression? A. No, we don't use it that way in the newspapers.

Q. That wasn't one of your own expressions, No. 1? A. No.

Q. This young man said, "Number one about sixteen or seventeen years old, five foot two or four inches tall, wore a grey cap, light complexion, dark hair and looks as though he might be Jewish or Italian"? A. He said that.

Q. Those were his words? A. Yes, sir.

Q. Not your newspaper words or newspaper language? A. No.

Q. "Number 2. About twenty-five years old, five foot eight, one hundred and forty pounds, wore a dark cap on the side of his head, looked like a Jew or an Italian. He either had a blue sweater or had a coat on him." Is that his exact language? A. It was.

Q. He didn't say one man had this on and another man had this on but enumerated them in the numerals one, two and three? A. As he said it, it is there.

Q. Did he say number, $, as you have it written down here for you are so accurate with your statements? A. No.

Q. That is something you put in of your own initiative? A. No, he was talking so fast my finger slipped.

Q. I thought your fingers could go as fast as he talked? A. They could.

Q. That is in the very last paragraph? A. Yes, sir.

Q. Number and then dollar sign? A. Yes, sir.

RE-DIRECT EXAMINATION by Mr. Stafford:

Q. Mr. Ward asked you if certain things in this statement were typewritten by you and you answered "No." Did you refer to the printed matter or the typewritten matter? A. The printed matter.

Q. You didn't do any of the printing on this? A. No.

Q. Only the typewriting? A. Yes, sir.

Q. In your answer to Mr. Stein to a question you testified something about the boy coming to your house? A. No.

Q. Where did he come? A. He came to Police Headquarters, to Captain Mosley's office.

Q. Were you there? A. I was outside of his office.

RE-CROSS EXAMINATION by Mr. Ward:

Q. Then you were very careless in the taking of this statement, you left certain printed matter go more than you filled in above the boy's name without crossing it off? A. Yes, sir.

Q. Is that your usual newspaper accuracy acting for the "News"? A. I was not acting for the "News."

Q. You knew it was a perfectly inaccurate statement when you permitted to remain in this statement

that page about this boy was a defendant, you knew it was inaccurate? A. I knew it should be crossed out.

Q. I see that you don't usually follow that custom of inaccuracy, do you? I think I know you too well to think you do? A. No.

DONALD KEYES, sworn for the State.

Direct-examination by Mr. Stafford:

Q. Where do you live? A. Twenty-four Straight Street.

Q. Do you go to school? A. Yes, sir.

Q. What school? A. Number ten.

Q. How old are you? A. Fourteen.

Q. Do you live home with your parents? A. Yes, sir.

Q. Do you remember the morning that this affair took place on March the seventh, nineteen hundred and twenty-five? A. Yes, sir.

Q. Where were you? A. I wasn't around when it happened.

Q. Where were you when it happened, do you know, around eight-forty-five? A. In the house.

Q. When did you come out? A. About half past nine or ten o'clock.

Q. Where did you go? A. I went up to the coal yard.

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

Q. Then where did you go? A. I went to come home again.

Q. When you were coming home what way did you

come home? A. I go through Straight Street, right around Straight Street.

Q. Do you know where the tunnel is? A. Yes, sir.

Q. Were you near that? A. Yes, sir, I came under the tunnel.

Q. At what time was that? A. Half past nine or ten o'clock.

Q. Were you alone? A. Yes, sir.

Q. I show you a gun, Donald, and ask you if you ever saw that before? A. Yes, sir.

Q. Where did you first see it? A. Laying in the road.

Q. What road? A. Straight and Fulton.

Q. By the road, do you mean the tunnel? A. Yes, sir.

Q. When was that? A. On the day of the robbery.

Q. At what time? A. Half past nine.

Q. How far from the tunnel was this? A. About three feet away from the tunnel.

Mr. Stafford: I offer the gun in evidence.

Mr. Stein: We object to it, if your Honor pleases. We see no relevancy to the revolver being offered in this case, no proof that either of the defendants had this revolver in their possession which was found up on Straight Street.

The Court: I will admit it.

Defendants except. Exceptions allowed and signed and sealed accordingly.

JOS. A. DELANEY,
Judge.

Mr. Ward: May I ask that this not be admitted as against Mr. Karp. There is not the

slightest scintilla of evidence that he was in that vicinity. There is some slight identification that he was at the mill, drove away in a machine, and I maintain that it would not be admissible against Mr. Karp.

The Court: You may have an exception noted, Mr. Ward.

Defendants except. Exception allowed and signed and sealed accordingly.

JOS. A. DELANEY,
Judge.

Revolver admitted in evidence and marked Exhibit S2 for the State.

CROSS-EXAMINATION by Mr. Stein:

Q. What were you doing at the tunnel, Donald? A. Going to the coal yard.

Q. And this gun was laying on the sidewalk? A. No, sir, up on the dirt.

Q. You saw it as you were passing on the sidewalk? A. Yes, sir.

Q. Were there other people passing? A. Not while I was passing.

Q. Any person or people who were passing where you were passing would see it? A. Yes, sir, I don't know.

Q. You weren't looking for a gun? A. No.

Q. You just happened to see it as you were walking through? A. Yes, sir.

Q. What did you do with it after you found it? A. I didn't take it at all. I told another boy and he took it.

Q. Did you pick it up? A. No, sir.

Q. Did the boy pick it up while he was with you? A. He went up and got it.

Q. And you walked away from where this gun was? A. Yes, sir.

Q. You didn't bother it at all? A. No.

Q. How far did you walk before you met another boy? A. Yes, sir.

Q. How far did you walk before you met the other boy? A. I walked a block before I met the other boy.

Q. Did he go back to this gun with you? A. No, sir.

Q. He went himself? A. No, sir.

Q. You didn't pick the gun up at all? A. No, sir.

Q. You didn't see him pick it up? A. No, sir.

Q. Is there a dirt pile under the tunnel? A. No, on the side.

Q. Beyond the tunnel? A. Yes, sir.

Mr. Ward: No question on the part of Mr. Karp.

WALTER PICKOWICZ, sworn for the State.

Direct-examination by Mr. Stafford:

Q. Where do you live? A. Twenty-three Straight Street.

Q. Did you live there on March seventh, nineteen hundred and twenty-five? A. Yes, sir.

Q. Do you know Donald, the young man just on the stand? A. Yes, sir.

Q. Did you see him on that morning? A. Yes, sir.

Q. Do you know when this robbery occurred on River Street? A. I heard about it two o'clock in the afternoon.

Q. Did you ever see this gun before? A. Yes, sir.

Q. Where? A. Up by the bridge.

Q. What do you mean by the bridge? A. By the tunnel.

Q. How did you happen to see it? A. There is a little pile of dirt and bricks there and this laid right next to it.

Q. How far from the entrance to go in the tunnel? A. Two or three yards.

Q. How did you know that was there? A. He came down and told me about it.

Q. Do you remember what time it was when you saw it? A. About half past nine.

Q. Who picked it up? A. I did.

Q. Do you know whether it was before or after the robbery occurred on River Street? A. The same day.

Q. At what time? A. Half past nine.

CROSS-EXAMINATION by Mr. Stein:

Q. Where were you going? A. I was playing miggles.

Q. Had you passed this spot yourself? A. No, sir, because he came down and called me.

Q. When you walked down there to this spot where you were told to go was there anybody with you? A. No, sir.

Q. You could easily see it? A. Yes, sir.

Q. Other people were passing ahead of you? A. No, sir.

Q. And behind you? A. No, sir.

Q. People do go in that general direction, apass where you passed? A. Yes, sir.

Mr. Ward: No questions for Mr. Karp.

JOSEPH MOSLEY, sworn for the State.

Direct-examination by Mr. Stafford:

Q. At the request of the Prosecutor's office, did you go to a saloon on the corner of Harrison and Straight Streets with a subpoena? A. At a quarter after one, yes, sir.

Q. Was he there, the saloon keeper? A. He was not, no, sir.

Q. What did you do with the subpoena? A. I left it with his wife and she said just as soon as he came in—

Mr. Ward: We object to what his wife said.

Q. You left it with his wife? A. Yes, sir.

No cross-examination.

JOHN MURPHY, sworn for the State.

Direct-examination by Mr. Stafford:

Q. You are connected with the Detective Bureau of the City of Paterson? A. Yes, sir.

Q. Are you the officer that went to New York with Mr. Quaine? A. Yes, sir.

Q. On the thirteenth of March? A. I did.

Q. Were you there when he identified Mr. Karp, the defendant? A. I was.

Q. How many were in the line that day, Officer? A. Five.

Q. Do you recall how they were dressed? A. No, I don't recall how the men in line were dressed, just ordinary civilian dress.

Q. What room were they in? A. The main room of Police Headquarters, the one hundred and thirteenth district.

Q. Where were they when Quaine was brought into the room? A. In line, Karp was with them.

Q. Was anything said to Mr. Quaine before—

(Question withdrawn.)

Q. What did Mr. Quaine do when he came into the room?

Mr. Ward: I object to that on the ground that it is an attempt to bolster up Quaine's testimony.

Objection overruled.

Defendants except. Exception allowed and signed and sealed accordingly.

JOS. A. DELANEY,
Judge.

A. I think it is better to let me describe the line-up as it occurred. Mr. Karp was instructed before the line-up that he could dress as he liked and he was allowed to change his clothes, which they don't ordinarily let him do but he changed his clothes there and they let him choose any place in line and he chose the second place from the end and after Karp was ready he took his place in the line and Mr. Quaine

was then brought in from another room in the rear of the Police Headquarters. Mr. Quaine walked up in front of the line and then back again and into the room and he said the man is in that line.

Q. What did he do? A. Went back and picked him out.

Q. What did he do? A. Pointed to him, touched him.

CROSS-EXAMINATION by Mr. Ward:

Q. As I understand it, Mr. Quaine knew he was going down to pick out some man who was thought to have been connected with this holdup? A. He was asked to accompany us and go down there for the purpose of trying to arrest someone.

Q. You and Mr. Quaine and who else? A. Detective Stengle and I, Mr. Quaine, Mr. Vreeland and Mr. Cadman.

Q. Mr. Quaine was the only man who identified him? A. Positively, yes, sir.

Q. You say there was a line-up of five men? A. Yes, sir.

Q. Four officers? A. None of them were officers.

Q. Who were they? A. Two men there on business from another county, I don't know who they were, and the other men from the Pinkerton Detective Agency.

Q. All large men? A. No, the two men from Nassau County would not be over five foot six.

Q. Karp was the smallest man in the group? A. I guess he might be the shortest.

Q. Karp had a hat on? A. He did.

Q. And the rest had caps furnished them? A. Not all of them.

Q. Are you positive of that? A. Yes, sir, because he changed hats with one of the men in the line.

Q. He was on the end of the line? A. No, the second from the left end.

Q. Then Mr. Quaine came in? A. Yes, sir.

Q. And looked the line over? A. Yes, sir.

Q. And went out? A. Yes, sir.

Q. And came back the second time? A. Yes, sir.

Q. The purpose for which he had been brought there the first time was to identify the man if he could? A. Yes, sir.

Q. Yet he came back the second time to pick him out? A. Yes, sir, he was told to do that.

Q. He came back the second time to do that? A. Yes, sir, he was told to do that.

Q. Karp talked freely, didn't he? A. No, I can't say he did.

Q. Karp denied he had been in Paterson, didn't he? A. He did.

Q. Karp said he had been on the morning this particular offense actually took place, he had been in New York? A. He told me that, yes, sir.

Q. He told you he had been working? A. His first story he told was that he was in bed until twelve-thirty and then he was jockeying a taxi.

Q. Didn't he tell you he was in bed until his mother had awakened him to go to work on a taxicab? A. I don't recall his saying who woke him.

Q. Do you recall him saying he had been working for this man from the February before March the seventh? A. He told us he wasn't working at all. He told us he was jockeying, working as an extra.

Q. He was working as a taxicab driver? A. Yes, sir, an extra.

Q. You know, as a matter of fact, don't you, Sergeant, that Mr. Karp went to the District Attorney and signed a release permitting him to come over here as quickly as possible? A. That is the usual procedure in New York.

Q. You know you can fight extradition? A. Yes, sir, he agreed to come over.

Q. You know, as a matter of fact, he agreed to come over and he personally went to the District Attorney's office and signed a release? A. He went down with us, as to personally that is not the way he went down.

Q. He was with you when he went to the District Attorney's office? A. Yes, sir.

Q. He went down there for the purpose of signing a release? A. Yes, sir.

Q. Which permitted him to be brought to Jersey from New York? A. That is true.

Q. And he came over here then with you and the others? A. Yes, sir.

Q. When he was placed under arrest there was no resistance offered by him? A. None at all.

Q. He went along with you peacefully, quietly and all that? A. Yes, sir.

RE-DIRECT EXAMINATION by Mr. Stafford:

Q. You don't mean to infer that this defendant came over to New Jersey without being extradited? A. We would not be able to take him over here with first going to the District Attorney's office.

Q. He was extradited? A. The New York procedure is they must go to the District Attorney's office.

Q. Did you have a warrant from the Governor of New Jersey to the Governor of New York for him? A. I did.

RE-CROSS EXAMINATION by Mr. Ward:

Q. In other words, he did not fight extradition when you had your warrant, he didn't attempt to make it hard for you, he didn't fight it, but on the other hand went to the District Attorney's office? A. I don't know whether you would term it a fight or not.

Q. There was no hearing on it? A. No.

Q. He made no fight on extradition? A. No, but he was extradited.

Q. You knew it was his right to fight the extradition and demand a hearing? A. Yes, sir.

Q. But he voluntarily went to the District Attorney's office and signed a release permitting him to come back over here? A. He couldn't do otherwise.

Q. Is it not true that Detective Walsh of New York would not permit you to come over to New Jersey with him whether he wanted to or not before he, Karp, went to the District Attorney's office and signed a release? A. Because the law compels him to.

By Mr. Stafford:

Q. Did you ever in your experience take a man out of New York into New Jersey without extradition papers? A. No, sir.

Mr. Ward: I ask that be stricken out.

Mr. Stafford: Mr. Ward has injected into this case an inference that this defendant came over voluntarily. The State has a right to refute that inference.

The Court: The jury has the testimony; as I recall it the officer had extradition papers for

the production of the defendant and also as I recall the testimony the defendant signed a release to the State of New York.

Mr. Ward: And he was entitled to a hearing.

The Court: He was entitled to a hearing if he demanded it.

FRANK WALSH, sworn for the State.

Direct-examination by Mr. Stafford:

Q. You are connected with the Detective Bureau of New York City? A. I am.

Q. Were you present when Mr. Quaine went down to your precinct to identify Mr. Karp? A. I was.

Q. Will you explain to the Court and jury the line-up as it occurred? A. Yes, sir. I informed Mr. Karp, that there were authorities here, that is, were in New York to place him under arrest for the crime of robbery, a stick-up of a pay roll that occurred in Paterson. I said, "Now, you can have a line-up, if you like," he said he would have a line-up and I said, "Do you want to change clothes," and he said, "Sure," and I furnished Mr. Karp with a blue shirt and a grey fedora hat in place of his. Then there was two men from Nassau County and there were also two other men that came in after Sergeant Murphy, their names I am not familiar with, and Mr. Quaine was in the back room of the station house and I brought Mr. Karp and these four men at even intervals and told Mr. Karp that he could take any position in the line that he wanted to and he did. Then Mr. Quaine was brought out and came back and I asked Mr. Quaine if he saw him.

Q. What did Mr. Quaine do? A. Mr. Quaine came out and looked the line-up over and then I brought him back to the room and then brought him back again and he went over and placed his hand on Mr. Karp, saying, "That is the man who had the revolver."

CROSS-EXAMINATION by Mr. Ward:

Q. It wasn't you who placed Mr. Karp under arrest, was it? A. Yes, sir.

Q. You had personal charge of him? A. I did.

Q. Did you ill-treat him? A. Not at all.

Q. You didn't beat him? A. No, sir.

Q. Do you remember when Mr. Cohn came down to see you, the counsel whom you have seen me associated with? Do you know that gentleman? A. I do.

Q. Did you see him in New York? A. I did.

Q. You refused to let him see Karp, didn't you? A. Absolutely.

Q. You said no Jersey lawyer could see Karp? A. I did.

Q. You are sort of prejudiced against Jersey? A. No.

Q. Mr. Cohn presented his credentials in order to show he was a lawyer? A. He did not.

Q. He told you he was a lawyer? A. He did.

Q. You knew this affair had taken place in New Jersey? A. I did.

Q. You knew this man would be brought back to New Jersey for trial? A. I didn't know whether he would or not.

Q. You had some doubt about his guilt? A. No, I did not.

Q. You knew that Mr. Cohn had appeared before the Judge? A. No, I did not.

Q. At the time of his arraignment? A. I did not.

Q. You were not present? A. I was there.

Q. You were present and Mr. Cohn was not? A. He was not.

Q. What was the name of the Magistrate? A. There were several Magistrates and right now I cannot recall.

Q. What is the name of the Magistrate who was the father of Mr. Davis? A. Durass.

Q. Didn't you appear before Durass with Mr. Karp? A. I think I did. I don't know what Magistrate was sitting.

Q. Your recollection is not very distinct about that? A. About the Magistrate, no.

Q. But you have a distinct recollection of what occurred about the time of this line-up? A. Yes, sir.

Q. That was careless of you, as a police officer? A. That was not an important thing for me to take the name of the Magistrate.

Q. Is it not true that Mr. Cohn in the open court room of this Magistrate asked you to speak to Mr. Karp and you said, "No"? A. Do you want me to answer that question?

Q. That is not true? A. No.

Q. You never saw Mr. Cohn in that court room? A. I seen him in that court room.

Q. Was that the first arraignment? A. No.

Q. How many arraignments were there? A. About two or three.

Q. You don't remember which it was? A. I don't know.

Q. How long have you been a police officer? A. Oh, about fourteen years.

Q. You did not consider it worth while to extend that little courtesy to a Jersey lawyer, who came over

to see a client, did you, yes or no? A. No, I didn't think it was necessary.

Q. Did you know the New York lawyer who represented Mr. Karp? A. I did.

Q. Was there any particular reason for you permitting the New York lawyer to interview Mr. Karp?

Mr. Stafford: I object to it. There is no evidence to that effect.

Objection sustained.

Q. Did the New York lawyer interview Mr. Karp?

Mr. Stafford: I object to it as immaterial.

Objection sustained.

Defendants except. Exception allowed and signed and sealed accordingly.

JOS. A. DELANEY,
Judge.

Q. Were you present at any time when a New York lawyer requested an interview with Mr. Karp?

Objected to by Mr. Karp.

Objection sustained.

Defendants except. Exception allowed and signed and sealed accordingly.

JOS. A. DELANEY,
Judge.

Mr. Ward: May I, your Honor, say—

The Court: An exception has been noted, Mr. Ward.

Mr. Ward: Your Honor won't hear me, however.

The Court: The next question, Mr. Ward, is what?

Q. You are biased and prejudiced in this case to such an extent you would not let a New Jersey lawyer see this man? A. I am not biased.

Q. Well, whatever it was, biased, prejudiced or some other unknown reason, you would not let Mr. Cohn, the New Jersey lawyer, see this man, would you, yes or no? A. No.

Q. Of course, you treated Mr. Karp most genteelly? A. I treated him as any other person.

Q. With consideration? A. The same as any other person.

Q. The same night you arrested this boy didn't you black jack him? A. I did not.

Q. Over the head and shoulders? A. I did not. I don't carry a black jack.

Q. It is not customary for you officers to carry one? A. I don't know whether it is or not. I don't carry one.

Q. Did you clip him one? A. No, I did not.

Q. Wasn't he all marked up at the time he was brought in for arraignment? A. No, he was not.

Q. There were no marks on him? A. Absolutely none that I could see.

Q. Did you beat him with a club on the stomach? A. No, I did not.

Q. Were there any marks on his stomach where you had beaten him? A. No, I didn't see his stomach.

Q. You didn't want to see the effect the blows might have had? A. There were no blows. I did not strike him.

Q. How long after he was arrested by the Paterson men did you see Mr. Karp? A. By that you mean what, how long after he was arrested? I arrested him.

Q. You were present when he was arrested? A. No, I arrested him.

Q. Then you had to be present? A. I was present.

Q. Then that answers my question? A. Yes, sir, but that was in the station house.

Q. He was brought in without being arrested? A. He was brought in for investigation.

Q. Was he brought in without being arrested? A. For investigation.

Q. You know what arrest is from your fourteen years' experience as a New York policeman? A. Yes, sir.

Q. Was he brought in without being arrested? A. He was.

Q. Why didn't you answer that way in the first place? A. Because you did not ask that question.

Q. Didn't I ask you the same question exactly? A. No, you did not.

Q. It was after he was brought in by the Paterson people, what for, investigation, you said, to place him under arrest? A. That is right.

Q. How long after? A. After the identification.

Q. No, before then, how long after the identification or so-called identification? A. As soon as he was identified I placed him under arrest.

Q. Between the time Mr. Karp was brought in by the Paterson men until Mr. Quaine came over for this so-called identification, how long a time passed? A. Mr. Quaine came over with the Paterson men.

Q. Was Mr. Quaine with the Paterson men when the Paterson men brought Mr. Karp into the police station? A. I don't know.

Q. How long were you there when Mr. Quaine got there? A. I believe that Mr. Quaine came over with Detectives Murphy and Stengle and was put in a rear room at the thirteenth precinct station house.

Q. Do you understand my question? A. Yes, sir.

Q. It is plain, is it not? A. Yes, sir.

Q. I asked you if you knew how long Mr. Quaine was there before you got there? A. I was there when he came.

Q. You were present then when Mr. Quaine and this man brought in Mr. Karp? A. No, the question wasn't that, he wasn't with them when they brought in Karp.

Q. Do I now understand you were not present when the Paterson men brought in Karp? A. When the Paterson men brought in Karp, yes, I was present.

Q. What made you say you were not? A. You said Quaine.

Q. I asked you if you were present when Karp was brought in and you said no. A. I certainly was present.

Q. Which is the truth, were you there or not? A. I was there.

Q. Are you sure of that now? A. Yes, sir.

Q. How long after Karp was brought in did Quaine come in? A. Come in where, I don't understand.

Q. Came in to meet you, you say you saw him? A. Sergeant Murphy informed me he was there.

Q. How long after you say Karp was brought in, if you did, was it you saw Mr. Quaine? A. That is the better part of a half hour.

Q. Karp was being held all this time without any warrant? A. Yes, sir.

Q. Where was he? A. Where was who?

Q. Karp? A. In the detectives' room.

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

Q. You talked to him? A. Yes, sir.

Q. And Detective Lynch was there, another New York detective with you? A. Yes, sir.

Q. When Mr. Quaine came in Mr. Quaine and you were together? A. That is right.

Q. You said something about Mr. Quaine being in another room? A. Yes, sir.

Q. With you? A. Not alone.

Q. You saw Mr. Quaine and met him, didn't you, before this line-up? A. Yes, sir.

Q. Then after meeting Mr. Quaine then you came out and fixed this line-up. Did you or not, yes or no? A. No.

Q. You have just testified you met Mr. Quaine before this line-up, is that true or not? A. Just one second before.

Q. Whereabouts? A. I am trying to tell you whereabouts if you want me to. Just in the rear room around from ours.

Q. So you and Mr. Quaine were in the rear room. Was Lynch there? A. No.

Q. You came out after having been introduced? A. No.

Q. I thought you said something about an introduction to Mr. Quaine? A. I instructed him.

Q. You did instruct him? A. I said—

Q. You were there more than a second before the line-up. Haven't you just said you were in that room a second. A. Just to call him out of the room.

Q. Out where? A. Out to the big room.

Q. Into the room where the line-up was? A. Yes, sir.

Q. You say you gave him instructions with reference to this line-up, where the line-up was? A. Yes, sir, so he would know.

Q. You did, didn't you? A. Yes, sir.

Q. And after that you presented Mr. Karp with a pink shirt? A. No.

Q. What kind of a shirt? A. A blue shirt.

Q. Didn't you testify on your direct-examination that it was a pink shirt? A. No.

Q. Didn't you testify you gave Karp a pink shirt and a grey fedora? A. No.

Q. Did you testify on your direct-examination that you gave him a pink shirt, you testified to something that was untrue? A. I didn't testify that.

Q. If you did? A. Have the record read.

Q. You particularly remember the grey fedora? A. Yes, sir.

Q. These Nassau County men to whom you refer as having some business at the precinct were detectives too, were they not? A. No, they were sheriffs.

Q. Deputy sheriffs? A. Yes, sir.

Q. And the two other men to whom you refer were detectives? A. I understood they were Pinkerton men.

Q. So that line-up consisted of two sheriffs' men from Nassau County and two Pinkerton detectives and this young man, Karp? A. That is right.

Q. And the two men from Nassau County, how were they dressed? A. Right now I cannot tell you.

Q. The two Pinkerton men, how were they dressed? A. I didn't take any notice of their dress.

Q. You do however remember how Karp was dressed? A. Yes, sir, because I got him the clothes.

Q. Was there anything more than the fact that you got him the clothes that impressed the facts on you that he was dressed in this manner? A. I remember getting the clothes.

Q. Was it because you said anything about the way he was dressed that that impressed you? A. Yes, sir, I said nobody will ever know you.

Q. In other words you wanted to disguise him? A. No, I wanted to give him a good break.

Q. You wanted to fix him up so nobody would ever know him? A. No.

Q. That wasn't your idea? A. No, I wanted to give him a fair break.

Q. That wasn't your idea of police practice or proficiency to fix a man up so no one would ever know him? A. No, he fixed himself up.

Q. You said to him, "I will fix you up so no one will ever know you"? A. No, I did not say that.

Q. When you testified a moment ago you said to him, "I will fix you up so that no one will ever know you," you didn't testify to the truth? A. I never said I will fix him up.

Q. You didn't say that a moment ago? A. I did not say that.

Q. You didn't say that a moment ago that you told Karp—

The Court: He said he didn't say that, why repeat.

Q. What did you say a moment ago about telling Karp in words or effect that you would fix him up so nobody would ever know him? A. If your Honor please as I just said the answer to that would be entirely different. The question he asked me was what did I say to Karp, before it was did I say to Karp I would fix him up so nobody could see him, would know him, I never said that.

Q. The question is withdrawn. You were asked a moment ago if one of the reasons you had for remembering how he was dressed was because you had told somebody how he was dressed. Do you remember being asked that question? A. No, you didn't ask that question.

Q. You didn't say yes you did remember telling Mr.

Karp you would fix him up so no one would ever know him? A. No, I did not.

Q. Were these two men from Nassau County, are they here? A. No, I don't see them.

Q. Where are these two Pinkerton men, are they here? A. I don't see them.

Q. Look around now, you have good eyes? A. I don't know if they are here.

Q. That is your idea of identification, after having seen these two men lined up with Karp you don't think you could identify them here in court today? A. No, I had no reason to remember them.

Q. They were there and they were in the line-up and you a trained detective after seeing these two men in a line-up for how long? A. A minute.

Q. And then the second time for a matter of how long? A. Probably another minute.

Q. Under ordinary circumstances when the matter of identification was in question that is right, isn't it. A matter of identification was in question at that time.

Mr. Stafford: This witness has identified nobody. I object to it as not proper cross-examination.

The Court: I will admit it.

A. Just what is that. I don't know what the question is.

Q. The purpose of that line-up and the purpose of that procedure was to make an identification? A. That is right.

Q. You knew that? A. Yes, sir.

Q. You had lined up the four men and the defendant, didn't you? A. I conducted the line-up.

Q. Four men and the defendant? A. The defendant lined himself up.

Q. There were four men and the defendant in that line-up? A. That is right.

Q. And there was one period of time for a minute when the proceeding was going on and another period of time for a minute when the proceeding was going on? A. About that.

Q. You are a trained detective, are you not? A. I don't know if I have been qualified or not.

Q. You were observing fully what was going on at that time? A. Yes, sir.

Q. Yet you now under those circumstances cannot identify the two Pinkerton detectives who were there? A. I cannot.

RE-DIRECT EXAMINATION by Mr. Stafford:

Q. Did you at any time notify Mr. Quaine of the position of Mr. Karp in the line-up or how he was dressed? A. Absolutely no.

Q. In preventing Mr. Cohn from interviewing Mr. Karp while in your custody were you following out the usual procedure?

Objected to by Mr. Ward.

(Question withdrawn.)

Q. I will ask you why you did not allow him to see him? A. Because there are rules that he must go up in the court.

RE-CROSS EXAMINATION by Mr. Stein:

Q. Let me understand you with reference to anything you may have said to Mr. Quaine. Did I get you correctly that you met Mr. Quaine and gave him instructions and then went out and made this line-up,

or did you first meet Mr. Quaine and then go up and make up the line-up or cause the line-up to be made. I don't want to quibble with you. I mean was the line-up formed before or after? A. The line-up was formed and then I went in and called Mr. Quaine out and gave him instructions.

Q. You met Mr. Quaine and then went and formed the line-up and then went back and gave Mr. Quaine instructions? A. Yes, sir.

RE-DIRECT EXAMINATION by Mr. Stafford:

Q. What instructions did you give him? A. No matter whether the man is there or not—

Mr. Ward: I object to it.

Mr. Stafford: I am entitled to the privilege of having him repeat the whole conversation.

The Court: There is no question about that.

Mr. Stafford: Mr. Ward has stopped his examination with that part that instructions were given.

Mr. Ward: I object to it on the ground that it is not binding on cross-examination. The question was simply asked to find out whether instructions were given or not.

Objection overruled.

Defendants except. Exception allowed and signed and sealed accordingly.

JOS. A. DELANEY,
Judge.

A. I instructed him, Mr. Quaine, no matter whether the man is there in that line-up or not or any man you see there who is connected in any way with this robbery don't say a word but come back and tell me or

walk up and down and then tell me whether he is there or not and if he is there then I will bring you back and you can pick out the men who are connected in any way.

RE-CROSS EXAMINATION by Mr. Ward:

Q. So you said to Mr. Quaine no matter whether you find a man who was connected with the robbery in that line-up or not? A. Man or men.

Q. In other words you gave him to understand he might in all probability find a man or men connected with that robbery in that line-up? A. I don't understand that.

Q. That is not plain to you at all? A. No.

JAMES LYNCH, sworn for the State.

Direct-examination by Mr. Stafford:

Q. Are you the officer referred to in the testimony of Officer Walsh? A. I am.

Q. Were you present when the line-up was made? A. I was.

Q. Describe the line-up? A. Detective Walsh was talking to Karp and told Karp that Sergeant Murphy and the other detective was there from Jersey and he was charged with a robbery or wanted for a robbery in Jersey and asked him if he wanted a line-up and he said yes. He asked him if he wanted to change his clothes in any way and he said yes and Walsh got him a blue fireman's shirt and a cap and a hat, a soft grey hat and he told him to take his place in line wherever he wanted to. There were two men from

Nassau County there and two other men and Karp took his place and Walsh then went into the back room and brought out Mr. Quaine. Mr. Quaine came over and looked over the line and walked back to Detective Walsh, had a conversation with Detective Walsh and walked right back again and put his hand on Karp and said, "This is the man."

CROSS-EXAMINATION by Mr. Ward:

Q. As I understand it Sergeant Murphy and some other Paterson policeman brought Karp in? A. Yes, sir.

Q. He knew he was with policemen when he was brought in? A. Yes, sir.

Q. So there was no necessity for force, there was no necessity for Officer Walsh going there to form the line when he was brought in by the policemen? A. It is customary to tell a man what he is getting a line-up for.

Q. That was explained to him? A. It was.

Q. Did Mr. Walsh leave Mr. Karp? A. After the line?

Q. I mean before the line-up? A. No, we put Mr. Karp in the line-up.

Q. Right away? A. We asked him if he wanted a line-up and he said yes and he got a hat and a blue shirt and a cap and then he told him to take his place in the line-up.

Q. Is your recollection distinct about this? A. Yes, sir, very.

Q. According to you Officer Walsh did not leave Karp before he made the line-up? A. Karp was in the room, in a small room.

Q. According to you Officer Walsh stayed with him? A. Yes, sir.

Q. According to you, Officer Lynch, Walsh didn't go into the room to meet Quaine and then come back? A. He did go into the room.

Q. Haven't you just said Officer Walsh did not leave Karp until the line-up was formed? A. I can't say.

Q. What made you say he did leave? A. I said when he had formed the line-up he went in and brought out Mr. Quaine.

Q. When I asked you if Mr. Walsh had left Karp from the time he turned him over when he was arrested up to the time he formed the line-up did you understand the question? A. No, I didn't. He could have left the room.

Q. You saw the Paterson officers that brought in Karp? A. Yes, sir.

Q. They brought him in? A. They did.

Q. Walsh explained to him what he was brought in for? A. He did.

Q. And asked him if he wanted a line-up? A. He did.

Q. You were present all that time? A. Yes, sir.

Q. He asked him if he wanted a line-up? A. Yes, sir.

Q. And Walsh gave him these clothes? A. Yes, sir.

Q. Then the line-up was formed? A. Yes, sir.

Q. You were present there all that time? A. Yes, sir.

Q. During all that time Walsh didn't leave Karp? A. He may have left Karp, I cannot judge just at this minute.

Q. Did you know these men who were in the line-up? A. I knew two of the men, two sheriffs from Nassau County.

Q. Are they here? A. No, they are not.

Q. Are the other two men here? A. I can't tell you.

Q. These other two men were from the Pinkerton Agency? A. I believe they were.

Q. You were there and talked to them? A. I saw them around there, in the line-up.

Q. Did you see them before the line-up and after the line-up? A. I saw them for a minute or two.

Q. Was that during the line-up? A. For about a minute or so.

Q. During that time you were interested in identification of a man? A. I was.

Q. That is part of your official work? A. It was.

Q. Can you pick out those two Pinkerton men who were there? A. I cannot.

Q. The circumstances were particularly with reference to identify? A. They was.

Q. You have been how long on the force? A. Going on eight years.

Q. You have been a detective how long? A. Four years.

Q. With your experience having seen these Pinkerton men under conditions which made it necessary to establish an identity and having seen them before and after this line-up and during the line-up you cannot now identify them? A. No.

Q. As a matter of fact do you recall that Mr. Karp was taken down to the District Attorney's office where a waiver was signed, there was Mr. Cohn, this gentleman sitting here, Mr. Walsh, Karp, you and these Pinkerton detectives, do you remember that? A. Karp was not in the car I was in.

Q. You remember going down there on that business? A. I do.

Q. At that time do you remember in the District Attorney's office that one of these Pinkerton men were there? A. There were several men there, I don't know who they were.

Q. You don't know whether it was the same men in the line-up or not? A. No, I won't say. I was driving the car. I didn't pay any attention.

Q. Didn't you come down with the two Nassau County men in your car? A. I don't know just now whether it was in my car or a Nassau County car.

Q. Were the two Nassau County men with you when you went down? A. They were in court. I don't remember whether they were in my car or not.

Q. Didn't you see them? A. I know the two Nassau County men.

Q. You don't know their names? A. Yes, sir.

Q. Personally? A. Yes, sir, I know them through business.

Mr. Stafford: With the exception of one witness the State rests and asks permission to produce him.

Mr. Ward: May I ask who the witness is?

Mr. Stafford: We don't know if this is the man or not. It is the man that Captain Mosley left the subpoena for.

Mr. Ward: You mean the saloon keeper referred to?

Mr. Stafford: A subpoena was left at his place.

Mr. Ward: Is it to establish there was no fight there?

Mr. Stafford: No, this is the witness who was supposed to be following Mr. Unger up the street.

Mr. Ward: Oh, it does not affect Mr. Karp?

Mr. Stein: We have no objection to any reservations the State wishes to make as to that.

Mr. Ward: I would ask in behalf of Mr. Karp that your Honor direct an acquittal on the grounds that there is not sufficient evidence beyond a reasonable doubt to establish his guilt on a general survey of the evidence.

The Court: The motion is denied.

Defendant excepts. Exception allowed and signed and sealed accordingly.

JOS. A. DELANEY,
Judge.

Mr. Stein: I move on behalf of defendant, George Unger, for a direction of acquittal on the grounds that there is no evidence that he was on the scene of the crime and participated in, or took any part, or used a gun and assaulted the complaining witnesses or any others and that there is no evidence that he participated in this affair at all.

The Court: Motion is denied.

Defendant excepts. Exception allowed and signed and sealed accordingly.

JOS. A. DELANEY,
Judge.

Mr. Ward: Of course it is understood that my motion is directed to both indictments.

The Court: So I understood.

STATE RESTS.

Mr. Ward opens for defendant, Karp.

Mr. Stein opens for defendant, Unger.

At this point an adjournment was taken until ten A. M. May 7th, 1925.

Second Day.

May 7th, 1925.

Court convened at ten A. M.

Mr. Stafford: If the Court please I have Max Sherman here that I would like to put on the stand, the witness I spoke of yesterday.

MAX SHERMAN, sworn for the State.

Direct-examination by Mr. Stafford:

Q. Where do you live? A. Four Fulton Street.

Q. What kind of a business do you conduct there? A. Lunch room.

Q. Were you at your place of business March seventh, nineteen hundred and twenty-five? A. Yes, sir.

Q. Were you there around eight-thirty or nine o'clock in the morning? A. Yes, sir.

Q. Did anything unusual happen at that time? A. I stood in the window and saw a fellow was running and a fellow was running after him.

Q. How far is your place of business from the Manhattan Shirt Company's office? A. About a half a block away.

Q. Did you notice in what direction the man ran? A. Up Fulton Street.

Q. Did you notice from where he started to run? A. From the gas station on the corner of Fulton and River Street.

Q. When you were looking out of the window where is the office of the Manhattan Shirt Company's plant with reference to your window? A. About ten or fifteen feet away from my window, I mean the

distance, I can't see to it straight to the office but that is the distance away.

Q. Did you see any persons or automobiles in front of the Manhattan Shirt works? A. I didn't see that.

Q. What was the first thing that attracted your attention? A. I saw a fellow was running and after him another fellow followed.

Q. How far from the office of the Manhattan Shirt works was this man that you saw running? A. About half a block.

Q. Did you see that man again that morning? A. That was running?

Q. Yes. A. I seen him when they brought him back again.

Q. Who brought him back? A. The policeman in the automobile.

Q. Officer Hartley, stand up, please. Is that the officer? A. Yes, sir.

Q. The man he brought back, is he the same man you saw running? A. I think so.

Q. Did you notice how he was dressed? A. Yes, sir, he had a brown overcoat on.

Q. What kind of a hat? A. A cap.

CROSS-EXAMINATION by Mr. Stein:

Q. Was that the only thing that attracted your attention, one man running and another chasing him? A. Yes, sir, the man running and another one after him hollering "Police."

Q. A man running and another chasing him? A. Yes, sir.

Q. Anything else? A. Yes, sir.

Q. Was there anything else there to excite or di-

rect your attention except the man running and another chasing him and hollering "Police"? A. Yes, sir.

STATE RESTS.

JOSEPH STEINBERG sworn for the defendants.

Direct-examination by Mr. Stein:

Q. Where do you live? A. Twenty-four East Ninety-seventh Street, New York City.

Q. What is your business? A. Lawyer by profession.

Q. Are you a member of the legislature of New York? A. I was for nine years up to January first.

Q. Do you know the defendant, George Unger? A. I do.

Q. How long have you known him? A. I can trace him positively for two years but I think I have known him longer.

Q. Do you know the neighborhood in which he lives? A. Yes, sir, Madison Avenue.

Q. Do you know what his reputation is in the neighborhood where he resides for being a good, honest citizen?

Mr. Stafford: I would like to examine this witness first.

CROSS-EXAMINATION by Mr. Stafford:

Q. Where do you live? A. Twenty-four East Ninety-seventh Street.

Q. Where does Unger live? A. One Hundredth

Street and Madison Avenue, three or four blocks away.

Q. How far is your house from his house? A. In distance I would say about a fifth of a mile.

Q. How long have you lived at this present address? A. Twenty-five years.

Q. How long has he lived at his address? A. I don't know that but I know him for living there two or three years.

RE-DIRECT EXAMINATION by Mr. Stein:

Q. Do you know what his reputation was in the community where he resides for being a peaceful law-abiding citizen? A. I do.

Q. What was it? A. Good.

CROSS-EXAMINATION by Mr. Stafford:

Q. Did you ever represent him in any criminal matters? A. I did not.

Q. Did you know he had been arrested by the police of New York City? A. I didn't know that until somebody was telling me that today.

Q. That is the first you learned of it? A. The first I learned of it.

Q. Did you know he had been arrested with the co-defendant, Mr. Karp? A. Here in Paterson?

Q. No, in New York, prior to this affair? A. No, I never had any knowledge of that matter.

Q. And he lived in your neighborhood? A. Yes, sir.

Q. And you are well acquainted with him? A. He had charge of three election districts for me and in my last fight I saw him daily from about June first, nine-

teen hundred and twenty-four, until about October first, nineteen hundred and twenty-four. He was in my headquarters almost daily.

Q. You are interested in his case? A. I don't know, except that I received a letter from him asking me to come here.

Q. You are interested in seeing him acquitted? A. If I thought he was guilty, no.

Q. Are you a practicing lawyer? A. I am.

Q. Do you know the rules of evidence? A. I hope I do.

Mr. Stafford: I ask that answer be stricken out.

The Court: Strike it out.

Q. You are interested in seeing this man acquitted? A. I wouldn't say I was interested.

Q. Why did you come from a foreign state into New Jersey? A. I felt I knew the man and from my knowledge of his reputation and knowing him as I do it was my duty to come here.

Q. You are a busy lawyer? A. Yes, sir, I was to be here yesterday and was actually engaged in a trial.

Q. You are a busy lawyer and you neglect your business to come over here and testify as a character witness? A. I adjourned my matter.

Q. How many did you have adjourned? A. I don't know, whatever the office adjourned for me.

Q. The trial of a case? A. Yes, sir, I have got a case already marked ready.

Q. And how many did you adjourn today? A. Maybe two or three.

Q. And still you are not interested? A. Not in the man himself.

Q. You came over at his call, a ready witness? A. Because I felt I was duty bound to.

Q. You considered it your duty? A. I thought so. I received a letter from him and he tells me in his letter that he was not guilty and you have got him wrong and he never had anything to do with it.

Q. Have you got that letter with you? A. No, I think it is on my desk in the office.

Q. When did you get it? A. I think I received it one day last week.

Q. When did you get the letter? A. I repeat my answer.

Q. When did you get the letter? A. Thursday or Friday of last week.

Q. Was there an address on the letter? A. Main Street, Paterson, and he asked me to write him and direct it to four hundred and fifty-six Main Street, Paterson, New Jersey.

Q. Are you sure you got this letter last Thursday or Friday? A. Maybe it was a telegram.

Q. What was it? A. I think it was a telegram.

Q. Are you sure about it? A. I am absolutely sure about it.

Q. You knew this man was confined to the county jail? A. That is the funny part of it. I did not know.

Q. Who sent the telegram? A. I don't know who. The telegram came over and I sent for some men and I says what is this telegram about.

Q. Don't repeat the conversation? A. Well, you wanted information and I am trying to give it.

Q. Are you sure it was a telegram? A. I am pretty sure.

Q. Absolutely? A. Positively.

RE-DIRECT EXAMINATION by Mr. Stein:

Q. Was it a night letter?

Objected to as leading by Mr. Stafford. Objection overruled.

A. I can't tell you that because I was in my office after lunch.

Q. You said it came from four hundred and fifty-six Main Street, was it three hundred and fifty-six or four hundred and fifty-six? A. I can't say.

Mr. Stein: I believe the jury knows the jail of three hundred and fifty-six Main Street.

Mr. Stafford: I object to counsel testifying.

Q. Did you know when George was arrested in New York he was discharged from that? A. I think so, yes.

Q. When did you learn it? A. I went to the neighborhood and asked people about Unger and they said he was in trouble but he was discharged.

RE-CROSS EXAMINATION by Mr. Stafford:

Q. So that is when you learned his reputation? A. That is when I wanted to learn more.

Q. After the commission of the crime? A. No, but I wanted to know more about him.

Q. So you went to these people? A. Yes, sir.

Q. After you heard he was in trouble you wanted to learn more about the man? A. No, I didn't do that.

Q. Why did you go to them? A. I said it is funny Unger is not around. Something must have happened to him and they told me he is in trouble in

Paterson, you know naturally you meet some people and they said that and I said something.

Q. When did you do that? A. After I got the telegram, this doesn't mean anything to me, the situation itself.

Q. It means a lot to you?

Mr. Ward: I object to the attitude of the prosecutor. It is my duty to protect this witness.

The Court: Proceed.

A. It doesn't mean anything to me at all.

Q. Still after you get word, as you say, that you were wanted in Paterson, that you were wanted in Paterson as a friend of Unger's, and was wanted as a character witness, and then you went into the neighborhood to learn something about him. Where did you go? A. Why, there is restaurants in his neighborhood and I met people standing on the corner. I have been in the legislature for ten years.

Q. You added a year, you said nine years? A. To be exact eight years.

Q. You were wrong twice, are you right this time? A. I didn't think it was very material.

Q. No, it is not, you are not testifying to material matters.

Mr. Ward: I object to that and ask that it be stricken from the records.

Q. Who did you go to see? A. I didn't go to see anybody.

Q. Whom did you see? A. I saw a number of people and I had a talk with them.

Q. How many did you see? A. People talk to me every night on the corner.

Q. Who broached the conversation about Unger, you or your people? A. I did.

Q. What for? A. Just as conversation will go.

Q. Why did you do that? A. I thought it was peculiar that this fellow Unger should be in trouble.

Q. What did you say to the people? A. I said it is funny, George Unger must be in some trouble in Paterson.

Q. Yes. A. That was all and they said, "Yes, is that so," and one of the people said he was in some trouble before and I said, "What was it," and he said he was in some trouble and he was discharged.

Q. Didn't you say no to my first question as to whether you knew he had been arrested in New York? A. You never asked that particular question.

Q. Didn't you say you didn't learn about that until you came to Paterson? A. When I say until I came to Paterson I probably meant that I was coming to Paterson.

Q. Did you mean to say it? A. I meant to tell you that after I received the notice to come to Paterson I naturally wanted to see if I could get any more information than I knew.

Q. Where did Unger live? A. At One Hundredth Street and Madison Avenue.

Q. Are you sure? A. Yes, sir.

Q. Don't you know he lived on Sixty-seventh Street? A. He voted in my district, he couldn't live on Sixty-seventh Street and do that.

Q. You don't know where he lives? A. I don't know the particular house, I know the neighborhood.

JOSEPH NEWMAN sworn for the defendants:

Direct-examination by Mr. Stein:

Q. Where do you live? A. Eighteen East Eighty-eighth Street, New York City.

Q. Do you know the defendant, George Unger? A. I do.

Q. How long have you known him? A. Five years, possibly more or less, within a couple of months.

Q. Do you know where he has been living in New York City? A. I do.

Q. Where? A. Between Ninety-ninth and One Hundredth Streets on Madison Avenue.

Q. Do you know where he has been living recently on Sixty-seventh Street? A. I do.

Q. Do you know what his general reputation is in the community in which he lives for being a peaceful, law-abiding citizen?

Mr. Stafford: Just a minute, I would like to examine him.

CROSS-EXAMINATION by Mr. Stafford:

Q. Where do you live? A. East Eighty-eighth Street.

Q. How far is that from where Unger resides? A. Ten city blocks.

Q. Did you work for Mr. Steinberg for his election?

Mr. Stein: I object to it on the ground that it is not proper cross-examination.

Objection sustained.

Q. You are friendly with Mr. Unger? A. To a certain extent.

Q. You assisted him politically when he was working for Mr. Steinberg?

Objected to by Mr. Stein. Objection sustained.

Q. How long have you known Mr. Unger? A. About five years.

Q. How long has he lived in the block between Ninety-ninth and One Hundredth Streets? A. That I can't tell you.

Q. How long have you known he lived there? A. About a year or so, I used to see him in the neighborhood every day.

Q. In his home? A. No, in the neighborhood.

Q. Do you know whether he simply meets his friends there or lives there? A. I know he met his friends there and he met them all over.

Q. Do you know he lived in the neighborhood, resides there? A. No, I have never went to his house.

Q. You don't know where he lives? A. No, but I know it is in the vicinity of Ninety-ninth Street.

Q. Do you know the house? A. No, sir.

Q. Were you ever there? A. No, sir.

Q. Do you know the street? A. I know the street very well.

Q. Did you ever see the house? A. No.

Q. Why do you say you know he lived there? A. I know he lived in the neighborhood.

Q. Do you know he lived in that neighborhood or meets his friends there? A. He meets his friends.

Q. You can't say he lives there? A. I don't know.

Q. You don't know where he lives? A. I don't know.

Mr. Stafford: I object to this witness testifying.

Objection sustained by the Court.

Defendants except. Exception allowed and signed and sealed accordingly.

JOS. A. DELANEY,
Judge.

DAVID A. WALLACH sworn for the defense:

Direct-examination by Mr. Stein:

Q. What is your business? A. Window cleaning, contractor.

Q. In New York City? A. Yes, sir.

Q. Do you know the defendant? A. I know him well.

Q. Has he ever been employed by you? A. Yes, sir.

Q. For how long? A. He started to work for me in nineteen sixteen and then he entered the army and when he came back, after he got out of the hospital, he started again sometime in nineteen hundred and nineteen.

Q. From that time on how long did he work for you? A. Up to the last week in February.

Q. This year? A. Nineteen hundred and twenty-five.

Q. Do you know where he lived in New York City in March, nineteen hundred and twenty-five or about that date? A. East Sixty-seventh Street or in Ninety-ninth Street.

Q. Do you know whether he ever lived in Ninety-ninth Street? A. Yes, sir.

Q. How long ago? A. I did know but now—

Mr. Stafford: I object to it unless he knows.

Q. How long ago? A. In nineteen hundred and nineteen.

Q. From that time until when? A. I don't know.

Q. You say on March seventh he lived on Sixty-seventh Street? A. Yes, sir.

Q. Where do you live? A. One seventy-five Eastman Boulevard, Franklin.

Q. Have you been in this neighborhood where he lives on any occasion? A. Yes, sir.

Q. Do you know his reputation in the community in which he resides for being a peaceful, law-abiding citizen?

Mr. Stafford: I would like to examine the witness.

CROSS-EXAMINATION by Mr. Stafford:

Q. How far do you live from where he lives? A. Ten miles.

Q. Do you go home every night? A. I do.

Q. Are you married? A. I am.

Q. Do you live home? A. Yes, sir.

Q. How far is your place of business from this neighborhood where Mr. Unger is supposed to reside? A. About four miles, four or five miles.

Q. Do you know where Mr. Unger resides, on Sixty-seventh Street or Ninety-ninth Street, where did he reside prior to March seventh, nineteen hundred and twenty-five? A. I lived in both places.

Q. Why do you say that? A. When he came to work for me he lived on Ninety-ninth Street in nineteen hundred and nineteen.

Q. That is six years ago? A. Yes, sir.

Q. How did you know he lived there then? A. When he came out of the hospital I went to visit him there.

Q. You visited him at Ninety-ninth Street six years ago? A. Exactly.

Q. Did you ever visit him there from nineteen hundred and nineteen until today? A. I did.

Q. You did, where? A. Sixty-seventh Street.

Q. When was that? A. In January or February, nineteen hundred and twenty-five, I went up to bring his pay to him because he was sick.

Q. And he was living at Sixty-seventh Street and not Ninety-ninth Street? A. He was in a room with his cousin.

Q. Did you visit him from January until March seventh at any other place? A. No.

Q. As far as you know he was residing at Sixty-seventh Street? A. Yes, sir.

Q. How far is Sixty-seventh Street from your business? A. I don't know, about three miles.

Q. And it is ten miles from where you live? A. From where I live in Franklin, yes, sir.

Q. Do you know anybody else in the neighborhood? A. I know the woman he lives with.

Q. What is her name? A. Mrs. Ash.

Q. Do you know anybody else in the neighborhood? A. I had an uncle living on Sixty-seventh Street.

Q. Do you know anybody else besides him, besides Mrs. Ash and your uncle? A. I know Mr. Unger's uncle on Sixty-seventh Street, a Mr. Altschuler.

Q. Do you know when they moved from Sixty-seventh Street? A. I don't know.

Q. When did you see them on Sixty-seventh Street? A. The time I went to visit Unger when he was sick.

Q. In nineteen hundred and nineteen? A. Nineteen hundred and twenty-five, January or February.

Q. You saw these three people there then? A. I believe so.

Q. Did you? A. I did.

Q. You saw Mrs. Ash there and your uncle, Mr. Wallach, and you saw George Unger's uncle? A. Yes, sir.

Q. What was his name? A. Altschuler.

Q. Where were they when you saw them in January, nineteen hundred and twenty-five? A. I think I saw them in the house he lives in.

Q. Altogether? A. Yes, sir.

Q. They are the only three you knew in George's neighborhood? A. Yes, sir.

Q. Did you discuss George's reputation with them? A. No.

Q. At that time? A. No.

Q. Have you discussed George's reputation with them since that time? A. Yes, sir.

Q. When? A. I met Mr. Altschuler in my office yesterday morning and he spoke to me about this case and he and I both agreed, we both felt very sad about this occurrence and we both agreed we didn't think he would be liable to be implicated in any affair like this and he talked to me about what I thought because he had worked for me.

Q. That is the only time you ever discussed Mr. Unger's reputation with any one of the three people you have just mentioned? A. I spoke to a number of other people since this affair happened.

Q. I asked you did you speak to anybody before it happened on March seventh about his reputation? A. Yes, sir.

Q. People who lived in the neighborhood? A. No.

Q. You don't know what his reputation in his neighborhood is, do you? A. Yes, sir, I do know.

Q. How do you know? A. Mrs. Ash, the lady he lives with always used to laud him to me, that he was

a well trained young man, that he came home every night and he slept in bed and paid his rent promptly and was very friendly with her children.

Q. Did you ever discuss his reputation or character with anybody in that neighborhood besides these three people? A. No.

Q. You never discussed it with any of the three people until you discussed it yesterday in your office, is that true? A. No, I will take that back, I did.

Q. What do you mean? A. I talked about him because they always asked me what I thought of him.

Q. Who asked you? A. The three people, usually my uncle and his uncle.

Q. When did they ask you that? A. In June, nineteen hundred and twenty-four.

Q. How did they ask you that? A. I was married in June and before I was married I had to leave my business with him and we had a general discussion as to if it was to be possible to leave that with him because he was going to handle five or six hundred dollars, probably more, and they all agreed that he could be trusted and I found everything in shipshape manner, better than I expected to.

Q. Why did you find it better than you expected to? A. Because I found new business in the office that he brought in.

Q. Was he in sole charge? A. Exactly, I signed blank checks and everything.

Q. You formed this opinion because he conducted your business properly in your absence? A. And because other people spoke highly to me.

Q. The three you mentioned? A. And some of my other people, too, the National Bank and the American Telegraph and I naturally wanted to inquire to find out if everything was all right.

Q. Are you related to him? A. I am.

Q. What are you? A. I don't know. A third or fourth cousin.

Q. You married his cousin? A. No.

Q. How are you related to him? A. Through his mother and my father.

DIRECT-EXAMINATION continued by Mr. Stein:

Q. Will you now answer my question. Do you know his reputation in that community in which he resides for being a peaceful and law-abiding citizen? A. I do.

Q. What is it? A. Very good.

CROSS-EXAMINATION by Mr. Stafford:

Q. You were married in June, nineteen hundred and twenty-four? A. Yes, sir.

Q. And you went away on a honeymoon? A. Yes, sir.

Q. And you left Unger in charge, didn't you? A. Yes, sir.

Q. How long had Mr. Unger worked for you? A. You mean since he came back from the army?

Q. The last time he worked for you? A. From October, nineteen hundred and twenty-three.

Q. Until when? A. The last week of February, nineteen hundred and twenty-five.

Q. Did you know he had been arrested? A. You mean for this here?

Q. No, in New York? A. Yes, sir, I remember that. He told me about it and a thing of that kind I would never forget that.

Q. Why? A. Because I take a great interest in people that work for me.

Q. You take a great interest in Unger? A. In everybody.

Q. You are interested in him, too? A. Yes, sir, I am.

Q. Because you are related to him? A. No, if it was my own brother and I thought he did this I wouldn't come here and testify for my own brother.

Q. You haven't got any brothers, have you? A. I got one brother.

Q. You wouldn't testify for him? A. Not if I thought or knew he did this.

Q. Didn't you know in December, while he was working for you, he was arrested by the New York police? A. He told me about it.

Q. Wasn't he out of work when he was arrested? A. I don't remember that he was out of work. I knew he was arrested.

Q. He worked all during the holiday season for you? A. The Christmas holidays?

Q. From Christmas to New Year's? A. Yes, sir.

Q. He wasn't out of work all the time? A. I don't think so.

Q. Are you sure? A. I can't recall it that he was away.

RE-DIRECT EXAMINATION by Mr. Stein:

Q. Did you learn he was discharged from this charge in New York? A. He told me that.

GEORGE UNGER sworn for the defense:

Direct-examination by Mr. Stein:

Q. You are one of the defendants, Mr. Unger? A. I am.

Q. How old are you? A. Twenty-six, going on twenty-seven.

Q. Where were you living at the time you were arrested? A. Two hundred and twenty-six East Sixty-seventh Street.

Q. How long have you lived there, about how long? A. Eight months or nine months.

Q. Before that where did you live? A. Seventy-four Ninety-ninth Street.

Q. Near the corner of Madison Avenue? A. Between Madison and Park Avenues.

Q. How long have you lived in New York? A. I have lived there for fifteen years.

Q. In nineteen hundred and seventeen where were you? A. I worked for the Franklin Contracting Company and then I enlisted in the service.

Q. How long were you in the service?

Mr. Stafford: I object to the question as immaterial.

Objection overruled.

A. Until May seventeenth, nineteen hundred and nineteen, until I was discharged from Memorial Hospital.

Q. Did you do service across the sea? A. I did.

Q. Where?

Mr. Stafford: I object to the question. It is absolutely immaterial.

The Court: I shall sustain the objection.

Q. After you came back from where you were, you were in a hospital where? A. Yes, sir, at Rahway, New Jersey.

Q. Were you discharged? A. I was.

Q. I show you this and ask what it is.

Mr. Stafford: I object to the question on the ground that it is absolutely immaterial.

The Court: I shall sustain the objection.

Mr. Stein: We desire to offer at this time a certificate of discharge of the army showing—

Mr. Stafford: I object to counsel reading the discharge.

Mr. Stein: I have a right to put it in the record.

The Court: I shall sustain the objection.

Mr. Stein: I ask an exception to the Court's refusal to permit me to put something in the record.

Defendants except. Exception allowed and signed and sealed accordingly.

JOS. A. DELANEY,
Judge.

Q. I show you this and ask you what it is,

Mr. Stafford: I object to the question.

Objection sustained.

Mr. Stein: I ask that this be marked for identification.

Certificate of discharge marked Exhibit D1 for identification for defendants.

Q. I show you D1 marked for identification and ask you where you received that from?

Mr. Stafford: I object to the question.

Objection sustained.

Defendants except. Exception allowed and signed and sealed accordingly.

JOS. A. DELANEY,
Judge.

Q. After you were discharged from the Memorial Hospital at Rahway, New Jersey, where you had come to after your service in the army, where did you go to live? A. Twenty-four East Ninety-ninth Street.

Q. What business did you go into at that time? A. I expected I was going to—

Q. Where did you go? A. To the United States Veterans' Bureau.

Q. How long were you in that? A. A little over four years.

Q. After that where were you? Where did you go after this? A. I went to a place that is located at the Grand Central Palace.

Q. Where was it located then? A. Fortieth Street and Fifth Avenue.

Q. After you went from there what did you do for a livelihood? After you were through with this veterans' bureau, where did you go? A. I went home.

Q. What work did you go to? A. I went as foreman of the Franklin Lane Contracting Company.

Q. Where is their place of business? A. One hundred and eighteen Fourth Avenue.

Q. Is that the business Mr. Wallach is in? A. Yes, sir.

Q. How long did you work for him? A. Until about the twenty-first or twenty-second of February.

Q. What year? A. Nineteen hundred and twenty-five.

Q. On the seventh of March this year were you in Paterson? A. I was.

Q. What time did you come here? A. About eight-thirty.

Q. Morning or night? A. In the morning.

Q. Had you been to Paterson before in your lifetime? A. I was.

Q. Have you any relatives here? A. I have a cousin.

Q. What is his name? A. Morris Manger.

Q. Where does he live? A. When I was here he lived at four fifty-nine Twelfth Avenue.

Q. On this day you came to Paterson were you participating in a holdup of the Manhattan Shirt Company? A. Positively no.

Q. Did you use a gun or participate in any form, shape or manner in this holdup? A. I did not, no.

Q. Were you there at this robbery? A. I was not.

Q. Do you know anybody who was? A. I do not.

Q. Why did you come to Paterson on this morning? A. I came to meet a friend of mine that told me he could get me a job in a factory.

Q. What is his name? A. Samuel Rosenblum.

Q. Where did he live? A. In Paterson.

Q. Where had you met Rosenblum before? A. I met him in Rahway Hospital Number Three.

Q. Is that the hospital you were in when you returned from overseas service? A. That is the one, the only one.

Q. Has he been to your house in New York? A. He has.

Q. How many times? A. I don't know, a dozen times or so.

Q. Were you working at the time? A. I was not.

Q. How long had you quit the employment of this window cleaning company? A. About two weeks or so.

Q. How did you come over to Paterson? A. Over the One hundred twenty-fifth Street ferry.

Q. How did you come here? A. I took a trolley car.

Q. What time did you get here? A. About half-past eight.

Q. Where was this appointment with Mr. Rosenblum? A. On Paterson and River Streets.

Q. Did he tell you where? A. He told me by a saloon and that I couldn't miss it because there is a garage being built there.

Q. What is Rosenblum's business? A. He is foreman in a silk factory.

Q. When you came to Paterson where did you get off at? A. Paterson and Broadway.

Q. Are you sure? A. Yes, sir, I got off on Broadway and Main Street I think.

Q. Where did you go after you got off there? A. I turned to the right.

Q. And walked where? A. Down four or five blocks.

Q. Where? A. River Street.

Q. From River Street where did you go? A. Straight down to Paterson.

Q. In which direction? A. To the right.

Q. When you got in front of this saloon what happened? A. I waited there for a few minutes and as I was walking in the saloon a man came out that was in a great hurry. He pushed up against me or shoved me and I asked him, "What is the idea," and he put his hands up to swing at me so I hit him first and as I hit him he started to holler for help.

Q. What did you do? A. Me, being a stranger I thought he had friends there and then he put his hand in his pocket and started to run after me.

Q. How far did he chase you, what distance? A. I don't know.

Q. One block, two blocks, five, ten or twenty? A. He chased me for a couple of blocks.

Q. When you stopped running did you see this officer in the automobile? A. I did not.

Q. What was the first thing that attracted your attention to Officer Hartley? A. I was walking up one street there by a saloon and I turned a corner and started walking up towards a hill and then I seen in the glass in the window Officer Hartley, I learned to know his name afterwards, he put his gun up and said, "Stand there, and put your hands up."

Q. Did you stand? A. I did.

Q. Did he ask you what you were doing? A. He asked me what was the matter and I told him I had a fight.

Q. What did he do with you? A. Searched my pockets and overcoat.

Q. Where did he take you? A. He put me in a sedan car.

Q. Where did he take you? A. He took me down on the corner where I had the fight.

Q. Was a crowd there? A. Yes, sir.

Q. Did he take you into the crowd or where? A. I was in the car then.

Q. Where did he take you? A. Down to the Manhattan Shirt mills.

Q. Who was there when he took you there? A. That I don't know. There was quite a few people around.

Q. You have seen these witnesses that testified here yesterday, Mr. Quaine and Mr. Vreeland and Mr. Cadman. Were they there when you were brought back? A. They were.

Q. Which one? A. I remember seeing the gentleman that was hit on the head.

Q. What is his name? A. I don't recall now.

Q. An elderly man? A. The gentleman who was sitting out here.

Q. You were brought before Vreeland, were you not? A. I was.

Q. By Officer Hartley? A. Yes, sir, and another officer.

Q. What did he say to Vreeland in your presence? A. Hartley said, "Is that the man," and he shook his head and said, "No."

Q. Where did they take you? A. They took me in the patrol wagon and took me up to the police station at Paterson.

Q. How many people have been brought in to you to the police station to identify you as a participant in this robbery?

Mr. Stafford: I object to the question as immaterial.

Objection sustained.

Defendants except. Exception allowed and signed and sealed accordingly.

JOS. A. DELANEY,
Judge.

Q. Have any of the people who testified here yesterday, have they been into the police station? A. They have.

Q. How many of them? A. About three.

Q. Were they brought before you? A. They were.

Q. Were you brought before them? A. I was in the room talking to Captain Mosley and they were brought in.

Q. What was said to them in your presence? A.

They just looked at me and said, "That is the man we seen running."

Q. Were any of them asked whether they saw you at the holdup? A. What do you mean, any of the men in the station house?

Q. The men you refer to, these witnesses, were they asked whether you were at the scene of the holdup?

Mr. Stafford: I object to the question as immaterial.

(Question withdrawn.)

Q. How long have you been in jail? A. Since March the seventh. I was four days in the station house and the rest I have been in the county jail.

Q. You say you were in the station house four days? A. Yes, sir.

Q. What time were you brought in there? A. I guess about nine o'clock.

Q. On Saturday morning? A. Yes, sir.

Q. And you were taken to jail four days later? A. Taken to the Passaic County jail, yes, sir.

Q. Where you have been ever since? A. Yes, sir.

Q. Did you throw away this gun, Exhibit S2? A. No, I never had that gun, I never seen it.

Q. Did you have any gun with you on this seventh day of March? A. No, sir.

Q. Were you arrested last December in New York? A. I was.

Q. Where? A. Two hundred and thirty-one E. Ninety-eighth Street, New York City.

Q. What kind of a place is that? A. A restaurant.

Q. How many were arrested at the time? A. Five.

Q. Was Mr. Karp among those five? A. He was.

Q. Did you know him before that time? A. I did not.

Q. Have you ever seen him since that time outside of in this court room? A. No.

Q. Have you seen him once in jail here in Paterson? A. Yes, sir.

Q. Outside of the time you saw Mr. Karp in this restaurant in East Ninety-eighth Street and the time you saw him in jail after this and then these few days in court, had you ever seen him before? A. I did not.

Q. That time you say you were arraigned in front of a Magistrate in New York? A. Yes, sir.

Q. Were you discharged from that complaint in New York? A. I was.

Q. Was Mr. Karp discharged? A. He was.

Q. While you were standing in front of the saloon on the corner of River and Paterson Streets that you have testified to, did you see this holdup? A. I did not.

Q. Was there any excitement in that locality while you were there? A. I didn't notice anything.

Q. Referring once again to this arrest in New York City what was there going on in that restaurant at the time you were arrested? A. There was an open restaurant and I came in there to eat and the place was quite crowded, it was filled, and I sat down to eat and a waiter took my overcoat from me and put it in another room.

Q. Where was this room with reference to the restaurant? A. In the restaurant.

Q. Front or back? A. In the back. When I got through eating my meal I asked the waiter for my coat and I went in the back to get my overcoat and as I did the special service squad of the New York police, acting as prohibition agents, raided the place looking for whiskey, and as they walked into that back room, the first officer there was a fellow I found out his name was Moffet.

Q. Are these officers here? A. Yes, sir; one of them.

Q. One of these officers that made the arrest is here? A. Yes, sir.

Q. Is that the officer in court? A. Yes, sir; that is Sergeant Griffin and Officer Moffet.

Q. Tell us what happened? A. Officer Moffet walked in there and I was standing up with my hand on my overcoat and he asked what is going on, and I said, "Nothing I know of," and he looked around and started to search the people and one fellow had a black jack and another fellow had four masks with him and then Officer Griffin walked in with four more officers.

Q. What did they do, were you all locked up? A. Yes, sir.

Q. And brought to the station house? A. Yes, sir; and they took my finger prints and sent it down to police headquarters. That was on Saturday night and Sunday morning I was brought in up in court before the Magistrate.

Q. And what happened to you? A. I was discharged.

Q. Were your finger prints taken in the Paterson police station when you were arrested on March the seventh? A. They were.

CROSS-EXAMINATION by Mr. Stafford:

Q. How long did you live at two twenty-six East Sixty-seventh Street? A. For about eight or nine months.

Q. How long prior to March the seventh? A. That is what I said, eight or nine months.

Q. Eight or nine months prior to March the seventh

you lived at two hundred and twenty-six East Sixty-seventh Street? A. Yes, sir.

Q. How long prior to the eight or nine months you speak of did you live at Ninety-eighth Street? A. From May seventeenth, nineteen nineteen.

Q. Did you live alone there? A. I boarded with an uncle of mine.

Q. You boarded? A. Yes, sir.

Q. What is his name? A. Frank Urze.

Q. On March seventh where were you boarding? A. With Mrs. Ash at two twenty-six East Sixty-seventh Street.

Q. Did you give your address to the police when you were arrested? A. I did.

Q. What address did you give? A. Two hundred and twenty-six East Sixty-seventh Street.

Q. This arrest you speak about is the one in New York City? A. Yes, sir.

Q. Who were the men with you at the time you were arrested? A. There was a fellow by the name of Harry Gerskowitz I think, Sol. Karp and I was there and another gentleman about twenty-two or three and a kid about fourteen, fifteen or sixteen.

Q. What are their names? A. I don't recall their names.

Q. Had you ever seen them before? A. I did not.

Q. This room you say the waiter took your overcoat and hung it up? A. Yes, sir.

Q. Where is that in that building? A. On the same floor that the restaurant is.

Q. Was it in the restaurant proper where the people you say were eating or was it in a back room? A. After that room there is a kitchen and after that there is another small room.

Q. First the large dining room, then the kitchen and then this other room? A. Yes, sir.

Q. That is where the waiter brought your coat? A. Yes, sir.

Q. Did you know the waiter? A. No, I did not. It was the opening night. The restaurant just opened that night.

Q. Describe the room you were in when you were arrested? A. I will.

Q. Please. A. What do you mean, by its size?

Q. What kind of a room was it? A. It was a room that held a large table there with about eight to ten chairs around it, that is all was there.

Q. A table and some chairs? A. That is right.

Q. It was a gambling room, wasn't it? A. No, sir; not to my knowledge.

Q. The officers had to break the door in, didn't they? A. No, they did not.

Q. Where was the proprietor when the officers entered? A. I don't know. I should judge he was in the front dining room.

Q. Who had their back up against the door when the officers entered.

Mr. Stein: I object to it. That is predicated upon something that is not in the case.

(Question withdrawn.)

Q. You were sitting down at the table, were you not? A. I was not.

Q. How many were at the table? A. Four.

Q. Where were you when the officers entered? A. I was in the corner just getting my overcoat, standing up.

Q. Where was the waiter? A. Waiting on different people in the dining room.

Q. How did you know where your coat was? A. The waiter told me it was too crowded to put the coats up there and he took my coat in the back.

Q. Did he tell you where it was? A. In the back room.

Q. Did he tell you where the back room was? A. Naturally it is in back of the kitchen.

Q. You walked through the kitchen? A. Yes, sir.

Q. Was the door open? A. It was open.

Q. What were the men doing when you walked in? A. I should judge they just got through eating and were talking.

Q. There was not any dishes on the table, was there? A. I don't recall that.

Q. There wasn't a dish or a glass on the table? A. I don't recollect there was.

Q. I ask you what the men were doing? A. As far as I can understand they just got through eating and were talking.

Q. What makes you say that? A. Because it looked that way.

Q. Did you notice any dishes on the table in the back? A. No.

Q. How long were you in the room when the officers came? A. I just got enough time to walk in and take the overcoat.

Q. Did you see what the men at the table were doing? A. I did.

Q. Did you see one of them wrapping up a blackjack? A. No, sir.

Q. Were all the four masks on the table when the officer came in? A. I didn't see any four masks on the table.

Q. These are the two officers? A. Yes, sir; I know them well.

Q. Have you met them other than this time last December? A. Yes, sir.

Q. Where? A. I met Officers Griffin and Moffet

on or with three more officers on One Hundred and Fifth Street, near Madison Avenue.

Q. When? A. I can't recall what day or what month.

Q. How long ago? A. I met Officers Moffet and Griffin about a week after we were discharged from the Magistrate's Court.

Q. Did you meet them alone or with three other officers? A. With three other officers.

Q. Where? A. On One Hundred and Fifth Street.

Q. At night? A. Yes, sir.

Q. What time? A. I guess it was around twelve o'clock.

Q. Did you stop to talk to them? A. I didn't talk to them.

Q. You said you knew them well? A. I knew them because they were the arresting officers in the case.

Q. Did they arrest you that night too? A. They did.

Q. That was the second time they arrested you? A. Yes, sir.

Q. What time did you arrive at the restaurant this night? A. Around twelve o'clock.

Q. What time were you arrested? A. I don't remember the hour, I don't recollect.

Q. Wasn't it three o'clock? A. No, sir.

Q. What time was it? A. I know it wasn't three, because it didn't take me three hours to a meal.

Q. What time was it? A. I don't recollect.

Q. One o'clock? A. Maybe one or a little after.

Q. Two o'clock? A. I don't know the exact hour. I do know after the arrest we waited some time until the patrol wagon came up from One Hundred and Fourth Street station house.

Q. How long did you wait there until the patrol came? A. A little over a half an hour or so.

Q. Do you know what time you arrived at the police station? A. I don't remember.

Q. You were kept in jail all that morning? A. We were kept in the police station.

Q. And you don't know what hour it was? A. No, sir.

Q. You don't know the name of the other two men except Mr. Karp and Gerskowitz? A. No.

Q. You never met them before? A. No, sir.

Q. You wouldn't know them now if you saw them? A. If I seen them, I guess I would recognize them.

Q. Do you know their names? A. I don't know.

Q. Did you know Mr. Karp before this twenty-eighth day of December, nineteen hundred and twenty-four? A. I did not.

Q. You never met him before? A. No, sir.

Q. Never saw him? A. No, sir.

Q. Had you ever met any of the other gentlemen before? A. I did not.

Q. You never seen any of them since? A. No, sir.

Q. Was one of the two you didn't know an Italian? A. Yes, sir.

Q. He was an Italian? A. Yes, sir.

Q. What was the fifth man, what was his nationality? A. I think he was a Jewish boy about sixteen years old.

Q. This man here, this is the Mr. Manger you talk about? A. I did.

Q. Your cousin in Paterson? A. Yes, sir, Mr. Manger.

Q. Where did he live on the seventh of March, nineteen hundred and twenty-five? A. He lived at Paterson.

Q. Do you know what street? A. I don't know.

Q. Have you ever visited him in Paterson? A. I have.

Q. On what street? A. The last time I saw him he lived on Twelfth Avenue, I believe.

Q. When did you visit him at Twelfth Avenue? A. I guess about a year or a year and a half ago.

Q. Was it a year or a year and a half ago? A. I don't recollect but I know it has been a long time since I have been to his house but I have met him.

Q. You haven't visited him there prior to a year or a year and a half ago? A. I was in his home when I was in the hospital, I was in his home then.

Q. How many times have you visited your cousin since you came out of the hospital? A. How many, how many times I have been in Paterson?

Q. How many times have you visited your cousin, Mr. Manger, since you came out of the hospital? A. In his home?

Q. Yes. A. Two or three times.

Q. How long have you been out of the hospital? A. Six years.

Q. You have always visited him on Twelfth Avenue? A. I don't know sure if it is because I didn't go there myself.

Q. You went there yourself when you visited him? A. I went there with somebody.

Q. With whom? A. With Mr. Wallach's car.

Q. The gentleman who was just on the stand? A. Yes, sir, his mother and he went there and also his two sisters.

Q. They brought you to your cousin's and you didn't know where he lived? A. I knew he lived in Paterson but not just the whereabouts.

Q. Why did you say on direct-examination it was

Twelfth Avenue, four hundred and fifty-nine Twelfth Avenue, who gave you that number? A. Who gave me that number, what do you mean?

Q. How did you know your cousin lived at four fifty-nine Twelfth Avenue? A. I knew it because we visited him there.

Q. That is the only place you ever visited him? A. Yes, sir.

Q. You didn't know he lived at any other address, did you? A. He did live with his father-in-law for a while.

Q. Where? A. I don't know, they took me from the father-in-law's in the car and took me to his home.

Q. Is that your book (showing witness note book)? A. Yes, sir, it is.

Q. Is that your handwriting? A. It is.

Q. Read that. A. M. Manger, three hundred and fifty-six Van Houten Street, Paterson, New Jersey.

Q. When did you put that in there? A. That was put there when I was in the hospital.

Q. Was all this writing put in before you came out of the hospital? A. Yes, sir.

Q. It was all put in before that? A. All these notes have been put in in the hospital.

Q. Is there anything in the book besides that? A. On the other side there is some more addresses.

Q. You wrote all these while you were in the hospital? A. I did.

Q. Then, your cousin, Mr. Manger, lived at three hundred and fifty Van Houten Street while you were in the hospital? A. His father-in-law must have lived there.

Q. Where did you get his address? A. I can't tell you, they came after me in the Rahway Hospital in

New Jersey and took me over the week end to their home.

Q. Then you got the address? A. Yes, sir.

Q. When they took you they took you to three hundred and fifty-six Van Houten Street? A. They must have. I didn't take particular notice what street they stopped at.

Q. When did you stop working for your cousin? A. Who?

Q. Mr. Wallach? A. You mean the last time here lately?

Q. Yes. A. The last week or the last two weeks in February.

Q. Were you discharged? A. I was not.

Q. Why did you leave? A. I left of my own accord.

Q. Why? A. I was thinking of going out in business for myself.

Q. What business? A. The window cleaning contracting business.

Q. Did you go in business for yourself? A. I had orders booked and was about to go in and found I was compelled to get a couple of hands to help me.

Q. You needed money? A. Yes, sir, I needed more money than I had.

Q. How much did you have? A. One hundred and fifty or one hundred and seventy-five dollars.

Q. How much money did you need? A. I needed more, I found I was compelled to employ union help.

Q. How much money did you need to comply with the demands of the union? A. They give you window cleaners at thirty-eight dollars a week and you pay his insurance by the union.

Q. How much money did you need when you left

your cousin's employ to comply with the terms of the union? A. Six or seven hundred dollars.

Q. And you couldn't get it? A. I didn't ask anybody.

Q. Did you try to get it? A. One uncle I asked for the money.

Q. Then you didn't ask anybody? A. I didn't ask anybody only just one uncle.

Q. Did he give it to you? A. He did not.

Q. When did you ask him? A. Right after I left my employer.

Q. What month was that? A. It was in February.

Q. The twenty-eighth? A. I don't recollect the day.

Q. Was it in March? A. When I left my employment?

Q. When you asked your uncle? A. Yes, sir. It was around March.

Q. March fifth? A. I don't know what day.

Q. And he wouldn't give it to you? A. He would but he couldn't at this time.

Q. And you still needed the six hundred dollars? A. Yes, sir.

Q. You didn't work from the time you left your cousin's employ until you were arrested? A. I did not.

Q. You were still boarding with Mrs. Ash? A. Yes, sir.

Q. You had how much in the bank? A. A hundred and fifty or a hundred and seventy-five dollars.

Q. How much did you have when you left your cousin? A. That is how much I had.

Q. How much did you have when you were arrested? A. How much money?

Q. On your person? A. About a dollar.

Q. How much did you have in the bank? A. I didn't have any money in the bank.

Q. Did you have any money at all? A. Yes, sir, I had some money.

Q. How much? A. About twenty dollars.

Q. You had twenty dollars where? A. With my uncle.

Q. The same uncle that wouldn't loan you the money? A. Yes, sir.

Q. You loaned him the twenty? A. No, I told you I gave him the twenty dollars after I met with an uncle of mine when I asked him for the money. He operated his grocery store and I used to help him out. He had a lot of people who worked in shops and factories cashes checks and a lad came in with a sixty or eighty dollar check and I was behind the counter helping him out and he says, "You got any money with you," and I said, "I have twenty dollars," and then he accommodated his customer, he cashed his check.

Q. When was that? A. That was before I was arrested.

Q. How many days before? A. I gave him the money, it was a Friday afternoon.

Q. And you only had a dollar left? A. Yes, sir.

Q. How much did you have in your pocket when you gave him the twenty? A. Four or five dollars, it wasn't over five dollars.

Q. Out of that five dollars you had a dollar left when you were arrested? A. That is right.

Q. How did you happen to come to Paterson on the seventh of March, nineteen hundred and twenty-five? A. How did I happen to come here? Well, in the hospital I met a fellow by the name of Sam Rosenblum and we were always pretty good friends and used to sleep in the same ward and I left the

hospital before he did and he used to come down to New York to see me and he used to come down and we used to go out together and at first he knew I was taken care of by the government giving me one hundred and thirty dollars and afterward I told him I was with the Franklin Lane Contracting business. And we saw each other quite often and after I left my employer I met him and told him I left the firm and intended to go in business for myself.

Q. This was after you left your cousin? A. Yes, sir.

Q. You met Rosenblum and you told him you were going to go in business for yourself? A. Yes, sir.

Q. Where did you meet him? A. Over to my home.

Q. Where? A. Two hundred and twenty-six E. Sixty-seventh Street.

Q. He called at your home? A. That is right.

Q. How long prior to the seventh of March was that? A. About two weeks.

Q. Did you tell him you needed money to start in business? A. No, sir.

Q. Will you describe Mr. Rosenblum to the court and jury? A. Yes, sir.

Q. Describe him. How old is he? A. I guess he is about twenty-eight or twenty-nine.

Q. Is he slim or stout? A. No, not slim. He is built well, five foot seven or eight.

Q. About what does he weigh, about, approximately I mean? A. I should judge about one hundred and forty-five to one hundred and fifty.

Q. What kind of hair? A. Dark hair.

Q. What kind of eyes? A. I don't know, grey or brown.

Q. Has he a mustache or beard? A. No, he is clean shaven.

Q. This was two weeks prior to March seventh that you saw Rosenblum at two hundred and twenty-six East Sixty-seventh Street? A. Yes, sir; I said recently.

Q. What is his name? A. I said, Rosenblum.

Q. Is it Rosenblum? A. It is.

Q. Did you see him again after that? A. I don't know.

Q. Before you were arrested? A. I did not.

Q. When did you make your mind up to come to Paterson? A. He suggested that he could get me a job in Paterson.

Q. This was two or three weeks before? A. Two weeks.

Q. Two weeks prior to March seventh? A. Yes, sir.

Q. That would be the last week of February, around the twenty-first or twenty-second of February? A. Yes, sir.

Q. You say two weeks prior to March seventh, that would be the last week in February, wouldn't it? A. Yes, sir.

Q. He suggested what? A. If I come over to Paterson, he being foreman of some mill, some silk mill, he could get me a job.

Q. Did he say what silk mill he was foreman of? A. No.

Q. Did he tell you where the mill was located at? A. Around the vicinity I had the appointment with him.

Q. Did he give you the name of the mill? A. No, he didn't.

Q. Did he ever in any of your visits to him talk about the place he worked at? A. The only thing he told me was he had a good position.

Q. Did he tell you where he lived? A. No, sir.

Q. Did you ever visit his home? A. No, sir.

Q. Did you ever visit the mill where he worked? A. I did not.

Q. The only time you ever saw Mr. Rosenblum were the times he visited you in New York? A. Yes, sir.

Q. How many times since you came out of the hospital did Rosenblum visit you in New York? A. I can't say.

Q. Approximately, about? A. Ten to twelve.

Q. Around a dozen times? A. Yes, sir.

Q. Did he tell you where the mill was located? A. The exact street?

Q. Yes. A. He didn't just tell me but it was in that neighborhood.

Q. Didn't he mention any street? A. Yes, sir, he told me where to meet him.

Q. Did he tell you where the mill was where he worked was located? A. No.

Q. Did he mention the name of any street? A. No, he did not.

Q. You came to Paterson alone looking for a mill? A. I wasn't looking for any mill.

Q. Where were you going to meet him? A. At Paterson and River Streets.

Q. Didn't you expect to find him working at eight-thirty in the morning? A. I don't know what time they go to work in the mill in New Jersey.

Q. What time do they go to work in New York? A. I never worked in a mill.

Q. How did you expect to meet him? A. Going from his home on his way to his business.

Q. Did he tell you he would meet you while he was walking to the mill at eight-thirty? A. He did.

Q. Did he tell you what street he would walk on? A. The neighborhood he is going to walk through.

Q. You were going to meet him when he was walking to the mill, did he tell you what street he would walk on? A. He did.

Q. What street? A. Paterson and River Street.

Q. Are you sure of that? A. Yes, sir, sure.

Q. He was going to meet you at eight-thirty? A. Yes, sir, by that saloon on Paterson Street.

Q. By that saloon on the corner of Paterson and River Street? A. Yes, sir.

Q. He was going to secure a position for you? A. He said, "I will try to get you a position."

Q. Did he tell you in what department? A. He didn't.

Q. You had never worked in a silk mill? A. I had not.

Q. You didn't know anything about the silk business? A. I did not.

Q. What time did you leave your home that morning to come to Paterson? A. About six or six fifteen.

Q. Your home was on East Sixty-seventh Street? A. I didn't leave that home at all.

Q. Were you at home at all that night? A. I was not.

Q. Where were you? A. I was up on One Hundred and Twenty-fifth Street.

Q. What is over there? A. Hollanders Baths.

Q. How much does it cost you to go to Hollanders Bath? A. A dollar and a half.

Q. A dollar and a half? A. That is right.

Q. That was on the sixth of March? A. That is right.

Q. What day was it you had four or five dollars left after giving your uncle the twenty dollars? A. That was the day.

Q. The same day? A. Yes, sir.

Q. Did you eat that night? A. Of course I did.

Q. Did you pay for it? A. Of course I paid for it.

Q. How much did you pay for a meal? A. I don't recollect.

Q. You only ate once that night, March the sixth? A. I only ate once, no, I ate a couple of times.

Q. That night? A. Yes, sir.

Q. Where did you eat? A. Fourteen hundred and fifteen Madison Avenue.

Q. What did you have there? A. I don't remember.

Q. How much did you pay for your check? A. Sixty-five or seventy cents.

Q. Where did you eat the second time? A. In the Baths.

Q. How much did you pay there? A. I think forty-five or fifty cents.

Q. That is practically a dollar for your meals? A. Yes, sir.

Q. How much did you pay for your bath? A. A dollar and a half.

Q. That is two and a half? A. Yes, sir.

Q. You had about a dollar and a half left? A. About a dollar.

Q. When you walked out of the Hollanders Bath you had a dollar in your pocket? A. Yes, sir, around that. A little over or a little less. Maybe a dollar thirty or a dollar ten.

Q. You didn't have over a dollar and a quarter? A. I don't know just the exact amount.

Q. Did you pay your fare over on the trolley? A. I did.

Q. How much did you pay? A. Thirty cents.

Q. From the One Hundred and Twenty-fifth Street ferry? A. No, not the trolley, I crossed over by the ferry.

Q. And it cost you thirty cents? A. You asked me how much fare for the trolley, is that right?

Q. Did you pay going over the ferry? A. I did.

Q. How much? A. A nickel.

Q. Do you know how much you had then? A. Yes, sir, if I know the exact amount I had then I still would know, but I don't know the exact amount.

Q. You said you had four or five dollars when you left your uncle? A. I did.

Q. It cost you a dollar for meals? A. Over a dollar for meals. I spent sixty-five to seventy-five.

Q. A dollar ten? A. A dollar and a quarter.

Q. And you spent a dollar and a half for a bath? A. Yes, sir.

Q. That is two and a quarter? A. Yes, sir, two seventy-five.

Q. That is coming out of the four? A. Yes, sir.

Q. And you had a dollar and a quarter left? A. Yes, sir.

Q. You paid a nickel coming over the ferry? A. Yes, sir.

Q. Did you get on the trolley car to come to Paterson? A. After I got off the ferry.

Q. You couldn't get on before you got off the ferry? A. Yes, sir.

Q. Did you come to Paterson? A. Yes, sir.

Q. How many times did you pay your fare? A. How many times did the conductor collect? Three times.

Q. Each time you gave him how much? A. I gave him a little round ticket, a round ticket that is about the size of a penny.

Q. A token? A. Whatever it is.

Q. Where did you get the token? A. In the box.

Q. How many did you buy? A. Four for thirty cents.

Q. How many times did the conductor come around to collect your fare? A. Three times.

Q. From New York? A. From the other side of the ferry until Paterson.

Q. From the Jersey side of the ferry until you got off at Paterson? A. Yes, sir.

Q. You left your house at six fifteen? A. I left the baths.

Q. At six fifteen? A. Yes, sir, about.

Q. What time did you arrive at the ferry? A. Seven or a quarter after.

Q. How far is the baths from the ferry? A. When I left the baths I had breakfast first.

Q. How much did you spend for breakfast? A. Fifteen cents.

Q. Where did you eat breakfast? A. Up around there some place.

Q. Then you only had about a dollar and ten cents left when you got on the ferry boat? A. Whatever I got was there.

Q. And you spent five cents coming over on the ferry? A. Yes, sir.

Q. You had a dollar and five cents left, is that true? A. It might have been.

Q. Was the dollar in a dollar bill or silver? A. Silver.

Q. Then you spent thirty cents for four tokens? A. Yes, sir.

Q. That left you about seventy-five cents, didn't it? A. Around that, I don't know.

Q. What time did you arrive at the ferry house to

come over to Paterson? A. Seven-five or ten or it might have been five or ten minutes difference.

Q. From what? A. From seven.

Q. Either ten to or ten after? A. Yes, sir.

Q. Do you know what time you got on the trolley car to come to Paterson? A. Do I know the exact time, I don't know.

Q. Do you know how long it took you to come over from the ferry house on the Jersey side to Paterson? A. Do I know how long, I don't know how many hours or minutes it takes.

Q. Did you ever come over before to Paterson? A. On the trolley?

Q. On the trolley? A. No, sir.

Q. Would you say it took less than two hours? A. Surely.

Q. How much less? A. It took about an hour and fifteen or an hour and twenty minutes or twenty-five.

Q. You came over on the trolley intending to meet your friend at Paterson and River Streets? A. Yes, sir.

Q. Why didn't you get off the trolley at Paterson Street as in the first statement you made to counsel, Paterson and Broadway, you said? A. I said Paterson and Broadway?

Q. That is what you told your counsel? A. Yes, sir.

Q. Why did you hesitate when your counsel asked you, are you sure? A. Why did I hesitate? I will tell you why. Because when I am asked now maybe it slips my mind for a moment and I don't recollect what block it is.

Q. Why did you say Paterson Street and Broadway? A. Because Paterson Street has been in my mind for so long I always talk about Paterson Street.

Q. That is why you said it? A. Yes, sir.

Q. Is that why you said your friend is going to meet you at Paterson and River? A. That is a fact.

Q. Why didn't you get off the trolley car at Paterson Street and Broadway as you first said? A. Why didn't I get off? I will tell you why. When this Samuel Rosenblum when he left me he told me how to get here and I inquired from people in New York how is the easiest way to get there and they told me to get off on the last stop and there will be no doubt about that. There will be two or three blocks difference in the walk but you don't get off before because it should not be out of your way. Do you know what I mean? That is why I got off at Main and Broadway, the last stop.

Q. Why didn't you tell counsel Main and Broadway before you hesitated and before he asked you "Are you sure about that?" A. I misunderstood his question.

Q. Were you expecting a question that your answer would be Paterson Street and Broadway? A. I was not.

Q. Can you describe the conductor of that trolley car that brought you over that morning? A. I can't, no.

Q. He came up to you three times and took your fare? A. That is right.

Q. You looked at him? A. I was reading the morning paper.

Q. Where did you get the morning paper? A. At the ferry news stand.

Q. Did you buy it? A. Yes, sir.

Q. You spent more money? A. Yes, sir, two cents I paid for the "News."

Q. You cannot describe how the conductor looked? A. No, I don't know just how he looked.

Q. Was he a young man or an old man? A. If I didn't take particular notice I don't know whether he was old or young.

Q. Did he have a mustache or a smooth face? A. I don't know whether he did or not.

Q. You don't know anything about him? A. I don't know.

Q. Did you describe the motorman on the trolley car you came over on? A. No, sir, I never saw the motorman.

Q. You never saw the motorman at all? A. No.

Q. When you boarded the trolley car where did you pay your first fare? A. After the trolley pulled out on the tracks.

Q. That is where you paid your first one? A. Yes, sir.

Q. After you pulled out on the trolley tracks to go up the Palisades? A. Yes, sir.

Q. Where did you pay your second? A. After riding twenty-five minutes he came around for another fare.

Q. With reference to the City of Paterson where did you pay your last fare? Where did you give the conductor your third token? A. I can't say. Maybe five or ten minutes. I don't know when I gave it to him. I know he came around and collected fares again. I didn't know what street I was at at the time or what street the car was on.

Q. Do you know where the Passaic River is? A. I don't know.

Q. Did you cross a river coming up to Paterson? A. We did cross a couple of little bridges.

Q. How many? A. I don't know. I don't remember I guess one or two.

Q. Do you know how many? A. I don't know that to be exact.

Q. Do you know where the last bridge was you crossed? A. No.

Q. Do you know whether you paid your token before or after you crossed the last bridge? A. I don't know.

Q. Do you know what time you arrived in Paterson? A. What time? I guess around eight-thirty.

Q. Eight-thirty? A. Yes, sir.

Q. Sure of that? A. I am not positive. I didn't have a watch with me.

Q. That was the hour you left the trolley car? A. Yes, sir.

Q. At Main and what street? A. Broadway.

Q. Did you inquire off anybody where the street was you wanted to go to? A. I did after I walked about a block or two.

Q. A block or two? A. Yes, sir.

Q. In what direction? A. To the right.

Q. Going down Main Street or West Street? A. I turned to the right and walked down towards River Street.

Q. How many streets are there when you got off the trolley car? A. Two.

Q. Which did you take? A. I took River Street and turned to the right and walked about four blocks.

Q. Which road did you take, the one to the right or the one to the left? A. The one to the right as I got off the car.

Q. And you walked four blocks? A. Yes, sir.

Q. Then you inquired? A. I inquired the nearest way to Paterson and River Streets.

Q. Who did you inquire from? A. I don't know, some men working there.

Q. Which side of the street did you walk down? A. On the right-hand side.

Q. Did you notice what kinds of stores were there? A. There were all kinds of stores.

Q. Were there any stores there? A. I noticed, I remember noticing a sign there, a sign of a saloon.

Q. On this street you walked down? A. Yes, sir, I was on the same side as the sign.

Q. What side of the street did you walk down on? A. It looked to me like a hotel or a furnished room house.

Q. Were there any other stores on that block? A. I didn't notice if there was any stores.

Q. Were there vacant lands? A. No, all houses.

Q. For the four blocks down? A. Yes, sir.

Q. Until you struck River Street? A. Yes, sir.

Q. After you got to River Street where did you go? A. Walked straight down to Paterson until I got to Paterson and River.

Q. You turned to the left or right? A. To the right.

Q. How many blocks down River Street did you walk before you got to Paterson? A. I don't know, four or five blocks.

Q. Do you know what time you arrived at Paterson Street? A. Do I know the exact time, I don't know.

Q. Do you know about what time? A. About eight-forty or eight forty-five.

Q. Did you inquire of anybody else where Paterson and River Street was? A. I did not.

Q. Did you inquire of anybody where Mr. Rosenblum lived? A. I did not.

Q. Did you look for Mr. Rosenblum? A. I did.

Q. Where did you go to look? A. I was standing at Paterson and River Streets by the saloon.

Q. How long were you standing there? A. Oh,

for about a few minutes I should judge, I can't say because I was without my watch.

Q. How long? A. Three minutes or five minutes.

Q. Three or five minutes? A. Yes, sir, when you wait for somebody the minutes might seem like fifteen.

Q. Then what happened? A. As I say I was about to walk into the saloon.

Q. Why were you going to walk into the saloon? A. To get a drink.

Q. A drink of what? A. Ginger ale or sarsaparilla.

Q. What happened? A. As I was walking towards the door a man came out, came out very fast, in a hurry like, and brushed up against me and as he did I don't remember whether I said, "What is the idea?" but I said something to him and he kind of looked at me and made a swing for me and as he did I hit him.

Q. Why did you hit him? A. Because he made a swing for me.

Q. Was he a young man? A. I don't know how young he was. He was a man between thirty and thirty-five.

Q. Was he sober? A. I don't know if he was or not.

Q. Then without any provocation from you he made a swing at you? A. Not without any provocation.

Q. Did you provoke him? A. No, but I was starting to walk in and he came out very much in a hurry. I don't know whether I shoved him or pushed him but he said, "What is the matter?" or, "What is the idea?" and I said, "What is the idea?" and passing up to me he put his hands up and I thought he was going to take a swing at me.

Q. And he missed you? A. I said sock and hit him.

Q. Are you a pugilist? A. No, sir.

Q. Where did you hit him? A. On the face or chest.

Q. Where was the saloon keeper when this was going on? A. I don't know where he was.

Q. Did you see him at all? A. I did not.

Q. After you had struck this man that had brushed against you what did you do? A. I started to run away from him.

Q. Where did you run? A. First street near me.

Q. Did the man that you had hit follow you? A. He did.

Q. How far did he follow you? A. I turned back once and saw him following me and I started to run faster and when I turned some other block I turned and he wasn't in sight after me and I was walking slow.

Q. You went under the railroad track? A. I don't know, a tunnel.

Q. When you ran you ran up the street that is called Fulton Street? A. So they tell me.

Q. You do know where the Manhattan Shirt Mill is? A. Yes, sir, I do now.

Q. The street you ran up passes the Manhattan Shirt Mill? A. No, sir.

Q. It doesn't pass it? A. No, sir.

Q. Didn't you run up that street? A. No.

Q. At the time you struck this man in the jaw at that street corner in front of the saloon didn't you notice anything going on across the street? A. I did not.

Q. You didn't hear any noise? A. I did not.

Q. You didn't see any excitement? A. I did not.

Q. Why did you throw up your hands before the officer told you to put them up?

Objected to by Mr. Stein.
Objection sustained.

Q. How many blocks did you continue to run after this man followed you? A. About three or four.

Q. And how many blocks did you walk? A. I should judge about two blocks.

Q. Did you see the officer in the automobile following you? A. I did not.

Q. Where was the officer when you first saw him? A. In back of me.

Q. How far in back of you? A. Like where that chair is, I was walking up this way, I might have these places mixed, I was walking this way and the car came up alongside of me and he was on the running board alongside of me and in back of me.

Q. Do you remember what you said to the officer? A. I do.

Q. What did you say? A. As the officer approached me, as I turned the corner, the officer grabbed me and said, "Throw your hands up and stand there."

Q. What kind of a coat did you have on that day? A. A brown coat.

Q. And a cap? A. Yes, sir.

Q. Do you remember being questioned by Officer Murphy? Officer Murphy, stand up. A. Do I remember being questioned by him? In regards to what?

Q. Didn't you speak to him? A. Yes, sir, a couple of times.

Q. Didn't he question you about this robbery? A. Yes, sir, all the time he talked to me was in regard to the robbery.

Q. Didn't you tell him you were to meet a man

by the name of Rosenblum at the corner of River Street and Fulton Street? A. I said Paterson.

Q. You didn't tell him River and Fulton Street? A. No, sir.

Q. Didn't you tell Officer Murphy you spent the evening of March the sixth at home in your own house on Sixty-seventh Street? A. There was a misunderstanding on that.

Q. Didn't you tell Officer Murphy that you spent the evening of March the sixth at your home on Sixty-seventh Street? A. I can't answer. That is a misunderstanding.

Q. Didn't you tell him that? A. Yes, sir.

Q. Did Officer Murphy come back some time after that and tell you he had just been to your home at Sixty-seventh Street and that you were not home at all that night? A. He did.

Q. Then didn't you say you went to the Hollander Baths? A. I did not.

Q. This man Rosenblum, did you ever see him at any other time or hear from him except the times he visited you in New York? A. I heard from him by mail.

Q. Have you got the letters? A. Some of the detectives went up to my house and ransacked the trunk and must have taken all of the letters with them.

Q. When you went to the Hollander Baths did you take a bath? A. I did.

Q. What kind of a bath? A. What do you mean?

Q. A steam bath, a tub bath, a shower bath, or what? A. A shower bath.

Q. Do you remember the condition of your feet when you were arrested? A. I do.

Q. They were dirty, were they not? A. They were not.

Q. Didn't Captain Mosley call your attention to your dirty feet after you had told him you had taken a bath? A. He did not.

Q. You went to the Hollander Baths and took a shower bath? A. I did.

Q. Didn't you tell Captain Mosley at that time that you had only taken a shower bath and that might be the reason for your dirty feet? A. I did not but I did tell him I took a shower bath.

Q. Did you have your shoes off when you took your shower bath? A. Yes, sir.

Q. Your feet were not dirty on March seventh when you were arrested? A. No.

Q. What was the first thing this man did when he came out of the saloon? A. What did he do?

Q. The first thing he did, what was it? A. I said he brushed up against me or shoved me, whatever you call it.

Q. When he brushed up against you you said, "What is the matter with you?" A. I said, "What is the idea?"

Q. And he made a swing at you? A. First he answered me.

Q. Then he made a swing at you? A. Yes, sir.

Q. And you swung back and hit him? A. Yes, sir.

Q. Is that all he did? A. Yes, sir.

Q. Did he swing with the other hand? A. He only made a swing with one hand.

Q. Did he do anything with the other hand besides make a swing at you? A. No, he didn't use the other hand on me.

Q. Why did you tell your counsel he put his hand in his pocket and started to chase you? A. Why did I tell my counsel?

Q. Did he put his hand in his pocket? A. Yes, sir.

Q. Where were you when he put his hand in his pocket? A. I started to run away from him.

Q. After you struck him? A. Yes, sir.

Q. Was he as big as you? A. Almost as big.

Q. Was he as heavy as you? A. He wasn't as tall as me but heavier.

Q. The officer brought you back to the saloon corner, didn't he? A. He did.

Q. Did you see the saloon proprietor there? A. I don't know but I seen a few people looking at me there close by the automobile.

Q. You saw the gentleman that was here, Mr. Sherman? A. Yes, sir.

Q. Was it in front of his saloon the fight started? A. I don't know his saloon.

Q. Were you brought back to his presence? A. There was a few people there.

Q. You said there was someone looking out of the saloon window at you? A. Several people looking out through the window into the sedan car, the car that I was in.

Q. That was the corner where you say you had the fight? A. Yes, sir.

Q. Did you ask the saloon keeper to prove it for you? A. I was in the car there held by Officer Hartley.

Q. Did you send anybody up to where the fight happened to investigate this and find out if the saloon keeper saw it? A. Did I ask, I explained everything to my lawyer, just what happened.

Q. Did you tell him about the fight taking place as this man ran out of the saloon? A. I did.

Q. Who were the three men who said when you got to the police station, "That is the man we saw running"? A. Who is the one?

Q. Yes. A. One of the gentlemen on the stand here yesterday.

Q. Is it not true, as a matter of fact, that you spent the night of March sixth in Paterson? A. It is not.

Q. That is not true? A. No, sir.

Q. Do you remember telling Officer Hartley when he arrested you you came over from New York on the train? A. No, sir, he spoke to me regarding how I came here and why I came here.

Q. Did you say where you came from? A. They never asked me. I got out as soon as he did in front of the corner where that gasoline station is and they took me to the Manhattan Shirt factory and I came out and they put me into the patrol wagon and I haven't seen him since.

Q. When he brought you in the car to the saloon where you say you had the fight—

Mr. Stein: I object to it. He said Officer Hartley took him to the corner where the saloon or where the gasoline station was, not where the saloon was where he had the fight.

Q. Didn't you say Officer Hartley brought you back to the corner where you had had the fight and people came over and looked in the car at you? A. That is right, to the corner where the saloon is on the corner.

Q. Yes, isn't the saloon on the corner? A. Yes, sir.

Q. Isn't that where you had the fight? A. Yes, sir.

Q. Is that where you had the fight? A. Yes, sir.

Q. That is where the saloon is and that is where you had the fight, on the corner? A. Yes, sir.

Q. How far is that corner from where Officer Hartley brought you into the Manhattan mills? A. A little over a half a block.

RE-DIRECT EXAMINATION by Mr. Stein:

Q. When you were arrested in Paterson did you tell the police you had been arrested in New York in December? A. No.

Q. Were you asked? A. I was asked if I was ever convicted and I said, "No."

RE-CROSS EXAMINATION by Mr. Stafford:

Q. Did you tell them you were never arrested? A. I was asked if I was ever convicted and I said, "No."

Q. Did you tell them you were never arrested? A. Of course I told them.

Q. Didn't you tell Captain Mosley you had never been arrested? A. There was a misunderstanding.

Q. Didn't you tell Captain Mosley you had never been arrested? A. I did not.

Q. Didn't Captain Mosley tell you if you have been arrested you are going to put us to some trouble to send men down to New York who will find it out any way? A. No.

Q. Didn't Officer Murphy come back and tell you he knew you had been arrested with Karp and wasn't it then that you admitted it? A. No, sir.

Mr. Ward: I have asked Mr. Stein to suspend a moment so we can call a witness who is here in court but not under subpoena.

CHARLES C. SCOTT, sworn for the defense.

Direct-examination by Mr. Ward:

Q. How long have you lived in Paterson? A. All my life.

Q. How long have you know Senator McGinnis? A. Probably thirty years.

Q. You have grown somewhat stouter in the last few years? A. Yes, sir.

Q. Before you had grown stouter however how many times were you mistaken on the streets of Paterson for Senator McGinnis?

Mr. Stafford: I object to the question and I object to this witness. It is absolutely immaterial how many times he was mistaken for Senator McGinnis.

Objection sustained.

Defendants except. Exception allowed and signed and sealed accordingly.

JOS. A. DELANEY,
Judge.

FLORENCE MANGER, sworn for the defense.

Direct-examination by Mr. Stein:

Q. Where do you live? A. Four hundred and ninety Eleventh Avenue.

Q. Are you married? A. Yes, sir.

Q. What is your husband's name? A. Morris L. Manger.

Q. Do you know the defendant George Unger? A. Yes, sir.

Q. Are you or your husband related to him? A. Yes, sir.

Q. Who is? A. My husband.

Q. What relative? A. Cousins.

Q. How long have you and your husband lived in Paterson? A. For the last eight years.

Q. How long have you known Unger? A. Since he came back from overseas.

Q. Has he been to Paterson to see you since the war was over? A. Yes, sir.

Q. How many times? A. Several.

Q. What address did he visit you at? A. Three hundred and fifty-nine Van Houten Street, one hundred and sixty-nine Fulton Place and four hundred and fifty-nine Twelfth Avenue.

Q. Did you ever visit him in New York? A. He has no home of his own.

Q. Did you visit him? A. I have seen his relations that he—

Mr. Stafford: I ask that that be stricken out. Strike it out.

Q. Did you see him at this hospital that he was confined in? A. Yes, sir, I seen him when he was first brought out from overseas and then I saw him at Rahway. We went to see him there.

Q. During what period was this with reference to years? A. I believe it was nineteen hundred and nineteen. I am not sure of that particular date but I think that was the year.

CROSS-EXAMINATION by Mr. Stafford:

Q. How many times did he visit you? A. A few times.

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

Q. How many times did he visit you on Van Houten Street? A. Once or twice.

Q. How many times did he visit you the second place, on Ninth Avenue? A. Fulton Place, I think once or twice.

Q. How many times on Twelfth Avenue? A. One or two times.

Q. That is six times? A. I don't remember.

Q. It might have been less but not more? A. No, more than six.

Q. Six times since nineteen hundred and nineteen? A. Yes, sir.

Q. Did he ever come over to visit you alone? A. At three hundred and fifty Van Houten Street we brought him there.

Q. Did he ever come to visit you alone? A. No.

Q. Never? A. No.

Q. On any of these visits? A. No.

Q. Did you ever visit him where he lived? A. We went for him and that is how I knew.

Q. Did you ever tell him where you lived? A. Yes, sir.

Q. When he was going to visit you you always went over and got him? A. We didn't always go.

Q. How many times did you go to get him? A. Once.

Q. When was that? A. Three hundred and fifty Van Houten Street at the hospital.

Q. Isn't that the only time? A. Yes, sir.

Q. On the other occasions when he came to your home with whom did he come? A. Relatives.

Q. What relatives? A. Cousins.

Q. He never came alone? A. Just that one time from the hospital he was there himself.

Q. How long ago was it he visited you the last time? A. A year or a year and a half.

Q. You were here when he testified? A. No, I came in late.

Q. You heard him testify? A. I heard him testify the last few sentences.

DEFENDANT UNGER RESTS.

MARY KARP, sworn for the defense.

Mr. Ward: I think we will need an interpreter she does not understand English.

Samuel Bernstein, sworn as interpreter.

Direct-examination by Mr. Ward:

Q. Where do you live? A. One Hundred and Third Street, Harlem.

Q. Are you the mother of this boy, Solly Karp? A. Yes, sir.

Q. Is his father living or dead? A. The father is dead, he died in Europe.

Q. Do you remember when your boy Solly used to go to school? A. I can't remember.

Q. I don't mean the date but I mean about the time he stopped going? A. I don't know.

Q. Do you remember when he stopped going to school, I don't mean the date or year, just the time? A. I don't know whether it it eight or nine years.

Q. Since that time has he worked steadily or not? A. He always worked steady. I always waked him up six o'clock in the morning and he goes to work.

Q. Did he or not support you?

Mr. Stafford: I object to the question. It is immaterial.

Objection sustained.

Defendants except. Exception allowed and signed and sealed accordingly.

JOS. A. DELANEY,
Judge.

Q. Did he live with you? A. Since the daughter moved away from me he always lived with me all the time.

Q. Do you remember the seventh of March the Saturday before he was arrested? A. Yes, sir, I went to the synagogue and I woke him up six o'clock on Saturday.

Q. How do you know it was the seventh of March? A. Because I know the sixth was on Friday.

Q. You wakened your boy up six o'clock? A. Yes, sir.

Q. How long after that did you go to the synagogue? A. After my boy leave a half an hour after I went to the synagogue.

Q. What time did he return that night? A. He came six o'clock in the afternoon.

Q. Was or was not the hour he left that morning as you have testified to the usual hour for him to leave? A. Always the usual hour he is to leave.

Q. When he returned at six o'clock that night was or wasn't that the usual hour for him to return? A. He always used to come around six to get his meals at six o'clock.

CROSS-EXAMINATION by Mr. Stafford:

Q. He lived at home with you? A. Now?

Q. On the seventh of March? A. I and the boy was in the house.

Q. How many boys? A. They are all married children, nobody else except that boy.

Q. He was the only boy home on the sixth and seventh of March? A. The only one, I have nobody else.

Q. He was the only one home on the morning of the seventh of March? A. The only one.

Q. Did he sleep home every night? A. He always slept in my house because he wouldn't let me sleep alone.

Q. Do you know what time he came home on the sixth of March? A. He came about ten o'clock. I didn't retire alone, I waited for him.

Q. On the sixth of March? A. Yes, sir.

Q. Where did he go when he came home? A. They went out after supper for a few hours. I don't know where he went.

Q. When he came home at ten o'clock where did he go? A. He wouldn't go away any more. He wouldn't leave the house.

Q. Was his bedroom in a different part of the house than yours? A. No, sir.

Q. Where was it? A. I sleep in the bedroom adjoining the front room and he sleeps in the front room.

Q. What time did he get up every morning to go to work? A. Every day at six o'clock I used to wake him up and he had a glass of tea and sometimes it was half past six he left the house.

Q. For whom did he work? A. He is a boss I don't know his name.

Q. What kind of business? A. He is a taxi driver for a taxi.

Q. Did he go out to work every morning at six o'clock? A. Always the same time.

Q. For the taxi man? A. Yes, sir.

Q. Did he ever tell you the name of the man for whom he worked? A. I never asked him and therefore he didn't tell me.

Q. Did he ever tell you where this place of business was? A. I never asked him. He always brought the pay to me and that is all.

Q. Was it raining when he got up on this seventh of March, when he got up at seven o'clock? A. That I don't remember.

Q. Was there any snow on the ground? A. I don't remember.

Q. Did you go out of the house that morning yourself? A. Yes, sir, I went to the synagogue.

Q. What time? A. About half past six or seven o'clock.

Q. Was there any snow on the ground when you went to the synagogue? A. I don't remember.

Q. Did you bring an umbrella with you? A. I wouldn't carry an umbrella on Saturday, on the Sabbath.

Q. Did you have rubbers on? A. I had no rubbers.

Q. Where is the synagogue from your home? A. The synagogue is on Park Avenue.

Q. How far from your home? A. The third or fourth avenue away from my home.

Q. Who is the rabbi in the synagogue? A. I am not supposed to know the name of the rabbi.

Q. How long have you been going to that synagogue? A. Since I lived in Harlem.

Q. How long have you lived in Harlem? A. Going on eight years.

Q. And you don't know the name of the rabbi? A. None of the women know the name of the rabbi.

Q. You don't know who the rabbi is when you go to the synagogue? A. No, he don't come there.

Q. Didn't you ever see the rabbi at the synagogue? A. I know him personally because he preaches every Sabbath at the synagogue.

Q. Didn't you never hear his name once? A. No, sir, I didn't.

Q. You have been going there for eight years? A. Yes, sir, going on eight years.

Q. What time do the services start on Saturday morning? A. The first mass is six o'clock and the second mass is eight o'clock.

Q. What mass were you going to when you went over there at six-thirty? A. I go there for the second mass.

Q. The second one didn't start until eight o'clock, did it? A. I used to go up seven o'clock.

Q. And you went this morning at half past six, didn't you? A. Seven o'clock.

Q. What time did your son leave the house? A. When he left afterwards, I left.

At this point a recess was taken until 2 P. M.

MARY KARP, recalled for the defense:

Cross-examination continued by Mr. Stafford:

Q. How long did you stay in the synagogue? A. Until eleven or half past eleven.

Q. What time did you enter the synagogue? A. Seven o'clock.

Q. You stayed there from seven until half past eleven? A. I always remain there for all the services.

Q. Who performed the services? A. They didn't have a stated chanter, sometimes they changed off, they had different chanters.

Q. Is the rabbi there? A. He is always there every Saturday.

Q. Was he there when you were there this morning, March the seventh? A. The first services they have without the rabbi, the second services he is always there.

Q. Was he there this morning on March the sixth? A. He is there every Saturday.

LESTER DOCTOR, sworn for the defense:

Direct-examination by Mr. Ward:

Q. Where do you reside? A. Fifty-four West One Hundred and Forty-third Street, New York City.

Q. Do you know Sol Karp? A. I don't know his name but I only know him from seeing him going to work in the morning while I am serving.

Q. What is your business? A. I work for the Borden Milk Company.

Q. In the course of your business, you go through One Hundred and Third Street? A. Yes, sir; the whole block.

Q. In the neighborhood in which he resides? A. Yes, sir.

Q. Were you familiar with the reputation of Mr. Karp on or before March the seventh, nineteen hundred and twenty-five, for being a good and respectable citizen?

Objected to by Mr. Stafford.

Objection sustained.

Q. Have you ever discussed the reputation of Mr. Karp with those who reside in the neighborhood? A. Since the man has been in trouble there has been quite a lot of talk and going around to the different people they all speak very highly of him.

Q. I ask you what his reputation is in the neighborhood in which he resides for being a good, respectable citizen?

Mr. Stafford: I object to it. May I examine the witness?

CROSS-EXAMINATION by Mr. Stafford:

Q. You have testified you have heard people talk about him since he got into this trouble is that what you said? A. Yes, sir.

Q. If you have any knowledge about his reputation is it based upon what you have heard people say since he got into this trouble? A. Not only since he got into this trouble.

Q. Did you ever discuss his reputation or character before he got into this trouble? A. No, sir.

Q. Then you don't know what his reputation was before he got into this trouble? A. No, sir, not that I know of.

Q. Your knowledge of his reputation has been gained since he got into this trouble, isn't that true? A. Yes, sir.

Mr. Stafford: I object to this witness testifying as a character witness.

Objection sustained.

RE-DIRECT EXAMINATION by Mr. Ward:

Q. Before the seventh of March, were you delivering milk in the neighborhood in which he resides? A. For the last three or four years.

Q. During that time did you ever come in contact with the people who said they knew him? A. Yes, sir.

Q. Was he ever talked about? A. Always very highly.

Q. Before that time? A. Yes, sir.

RE-CROSS EXAMINATION by Mr. Stafford:

Q. Who talked highly about him? A. Lots of people that knew him that I served.

Q. Did they ever tell you he had been arrested on December twenty-eight? A. No, sir.

Q. Didn't you know it before I asked you the question? A. No.

Q. You don't even know it now? Nobody ever talked to you about it? A. No, sir.

Q. You never lived in the neighborhood? A. I have been serving and collecting bills for the last three years. It is just as if I had lived around there and I have talked to them on the street.

Q. You have never lived in his neighborhood? A. No, sir.

Q. Do you know where he lives? A. Yes, sir.

Q. Where does he live? A. Two hundred and thirty-seven East One Hundred and Third Street.

Q. Who told you his address? A. Nobody told me his address.

Q. How did you learn it? A. I come in contact with the mother on the street, buying milk.

Q. On the street? A. Yes, sir, she used to come down and buy a bottle of milk now and then.

Q. How frequently? A. Sometimes maybe once, sometimes maybe once in two weeks, sometimes more.

Q. Did you deliver milk there? A. No, sir.

Q. Did you deliver milk to anybody on that street? A. Yes, sir.

Q. Daily deliveries? A. Three quarters of the people living on that street have been taking milk from me since I worked on the wagon.

Q. You discussed this man's reputation with people living in the neighborhood before March the seventh? A. Yes, sir.

Q. Mention one? A. I don't know just the names.

Q. What brought about the discussion of this man's reputation prior to March the seventh, nineteen hundred and twenty-five, since you didn't know he had been arrested on December twenty-eighth, nineteen hundred and twenty-four? A. I can't think of it now.

Q. Was there any occasion to discuss this man's reputation? A. No, sir.

Q. Will you say you did discuss his reputation? A. Yes, sir.

Q. Without cause? A. No, sir.

Q. Didn't you have any reason for doing it? A. No, sir.

Q. How long have you lived in New York? A. All my life.

Q. Have you ever been convicted of a crime? A. No, sir.

Q. How long have you worked for Borden? A. On and off for seven or eight years.

Q. Do you know Mr. Karp personally? A. No, sir.

Q. Did you ever talk to him in your life? A. Yes, sir.

Q. How frequently? A. In the morning when he used to go to business, he would say, "Hello, Borden," and I would say, "Hello" to him.

Q. What time do you go past his house? A. About a quarter after six to seven o'clock.

Q. You met him every morning? A. Not every morning but I met him sometimes three or four times a week.

Q. And always said, "Good morning"? A. No, not "Good morning," he would say, "Hello, Borden," or he would say, "Have you got a cigarette" or something like that, or ask me for a match.

Q. You didn't know anything about him? A. Only what the people spoke about him.

Q. What people? A. Since he is in trouble.

Q. Isn't that the first time you learned about his reputation? A. No, sir, there is an occasion once before.

Q. What was the occasion? A. I can't remember just now.

Q. How long ago was the occasion? A. Oh, I should judge over a year ago.

Q. Who did you go to see to talk about his reputation?

Mr. Ward: I object to the question. He hasn't said he went to see anybody?

(Question withdrawn.)

Q. Whom did you see to talk to about his reputation? A. I don't remember just now.

Q. Was it a man or a woman? A. It was a man.

Q. Did he live on the same street? A. I imagine he did.

Q. Did he? A. I don't know where everybody lived, only the people I served.

Q. Did you serve this man? A. No, sir.

Q. Do you know whether he lives on this street or not? A. No, sir.

Q. Did he live in that neighborhood? A. No, sir.

Q. What part of New York was he in when he spoke to you? A. On the block I was serving.

Q. At six-thirty in the morning? It was dark then? A. I didn't speak to him at that time, later on in the day when I was collecting.

Q. Do you make two trips? A. Yes, sir, one call when I collect and one call when I serve.

Q. What time do you finish your route in the morning? A. Quarter after seven or half past seven.

Q. Then you start collecting? A. No, sir, I go and eat.

Q. When do you start to collect? A. Quarter after eight or so.

Q. Did you ever meet Mr. Karp at a quarter after eight? A. No, sir.

Q. Sure of that? A. No, sir.

Q. What makes you so sure?

Objected to by Mr. Ward.

Objection sustained.

Q. Can you mention the names of anybody you have spoken to since the seventh of March about this man's reputation? A. No, sir.

Q. Mention one? A. No, sir.

Q. Man or woman? A. No, sir.

Q. Or where they live? A. No, sir.

Q. Are you related to the defendant? A. No, sir.

EDWARD ECKART sworn for the defense.

Direct-examination by Mr. Ward:

Q. What is your business? A. I have a taxi.

Q. Whereabouts do you reside? A. One hundred and twenty-two East One Hundred and Second Street.

Q. On the seventh of March last was Mr. Karp in your employ? A. Yes, sir.

Q. For how long a period of time had he been in your employ? A. The first or second day since I had bought the car.

Q. And that was when? A. I bought the car on February eighteenth, and I had to go down and slick it up.

Q. What kind of a car was it? A. A twentieth century, painted red, Mogul checker.

Q. It was not a Studebaker or Buick? A. No, sir.

Q. Red? A. Yes, sir, an old checker cab painted red.

Q. On or before March the seventh, nineteen hundred and twenty-five, do you know what the reputation was of Mr. Karp in the neighborhood in which he resided for being a good, respectable, honest, upright young man? A. Yes, sir.

Q. What was it? A. Very good.

Q. You employed him around the twentieth of February? A. Yes, sir.

Q. What shift did he have? A. He worked in the daytime for me.

Q. What time did he go on? A. I worked nights myself and used to pull the car in the garage two or three whatever time it was, I had no special time, and he took it out of the garage in the morning.

Q. What time? A. Sometime between seven or eight o'clock.

Q. Do you recall the seventh of March? A. I do.

Q. Do you recall his having been arrested on March the thirteenth? A. Yes, sir.

Q. Do you recall the Saturday before that which was the seventh of March? A. I do.

Q. Did you see Mr. Karp on that day? A. I did.

Q. Where did you see him? A. He called my home up before, or about, a quarter of seven—

Mr. Stafford: I object to any conversation he had over the phone.

Q. Did you recognize his voice? A. I did.

Q. Go on. A. Between half past six and seven o'clock I got a phone call and they said, "Your workman is on the phone," and I got up and he said, "I can't start the car," and I said, "What is the matter?" and he said, "The starter won't work. I tried to turn it over and can't start it."

Q. Did you go down? A. Yes, sir.

Q. About how long after he phoned you did you arrive at the garage? A. Twenty minutes later.

Q. Seven o'clock? A. Yes, sir.

Q. What did you do? A. I started it.

Q. Did you work on the car? A. Yes, sir.

Q. Was Karp there? A. Yes, sir.

Q. How long did Karp and you remain there in that garage working on that car? A. About half an hour or more.

Q. What time was it when you left him or he left you? A. He took me to One Hundred and Third Street and Lexington Avenue and I bought the paper and went home.

Q. What time was that? A. A little before eight.

Q. A little before eight o'clock? A. Not much before eight.

Q. Did you see him again that day? A. Yes, sir.

Q. When? A. When he was through working for the day.

Q. About what time? A. The usual time, four or half past four.

Q. Was there anything unusual about his appearance or demeanor in the afternoon, when you saw him that afternoon about four or a little after four o'clock? A. No, sir.

CROSS-EXAMINATION by Mr. Stafford:

Q. How long have you known Mr. Karp? A. About four or five years.

Q. Did he ever work for you before? A. No, sir.

Q. Do you associate with him? A. Not exactly.

Q. Are you his companion? A. No, sir.

Q. Have you ever been out with him? A. We worked on the same job.

Q. Where? A. Driving a city bus.

Q. How long ago was that? A. Last summer.

Q. Did you ever go out any place with him? A. Not that I can recall.

Q. Have you ever been convicted of a crime? A. No, sir.

Q. You did go out with Karp occasionally nights? A. No, sir; I was working nights myself.

Q. Were you not arrested with him one night? A. No, sir.

Q. Never once? A. No, sir.

Q. How old are you? A. Twenty-eight years old this August.

Q. How long have you lived in New York? A. All my life.

Q. What was your employment before you owned a taxicab? A. I drove a taxi for four years.

Q. Where do you live? A. One Hundred and twenty-two East One Hundred and Second Street.

Q. Do you know where Karp lives? A. I do.

Q. Where? A. Two hundred and thirty-seven E. One Hundred and Third Street.

Q. Have you ever been to his house? A. No, sir.

Q. How do you know his mother lives there? A. I often pass by his house and I saw his mother on the stoop.

Q. How do you know the woman you saw on the stoop is his mother? A. He pointed her out to me quite a few times.

Q. When? A. When he was working for me last summer on the bus.

Q. When he worked for you, you worked nights and he worked days? A. That is right.

Q. How could he be with you? A. I used to have one day off a week.

Q. I thought you worked nights? A. I took a day off a week.

Q. Didn't you say you worked nights? A. I worked a single shift one day.

Q. How long ago? A. That is with me since I got the car. I had a day off every week.

Q. Now, do you know when it was he pointed his mother out to you? A. I don't know.

Q. Once he did that? A. Quite a few times.

Q. Were you with him every time you had a day off? A. No, sir.

Q. How many times were you with him in the day time when he pointed out his mother to you sitting on the stoop? A. Say two or three or four times, maybe more.

Q. Always on the days you were off? A. Not exactly.

Q. Would you ride with him when you had a day off? A. No, sir.

Q. How did that come about? A. One time when he was working days, I had to go down to pay a note so I asked him to take me down town.

Q. Did you have to go through on that street? A. I met him down there on One Hundred and Third Street, I met him down there. I live in the same block where he lives, so I says, "I am going to let you take me down town to get a note shoved."

Q. To get a note shoved? A. To pay my note.

Q. Were you shoving notes? A. No, sir.

Q. You can only remembering that happening on one occasion? A. I don't say on one occasion.

Q. What was the second occasion? A. I just happened to pass by when riding with him from the garage and he pointed out his mother to me.

Q. That was only since he was in your employ? A. Then and when he worked on the bus but I didn't know his mother to talk to.

Q. You didn't know his mother to talk to? A. Since the case I do.

Q. Have you talked to her? A. She comes home with me, they live in the same neighborhood I do.

Q. Where did you meet his mother the night you talked with her since this case started? A. Where did I meet his mother?

Q. Yes. A. I didn't meet her.

Q. Where did you see her? A. Coming home from here.

Q. Didn't he ask you to appear and testify that he was working with you? A. Yes, sir.

Q. That is what he asked you? A. Yes, sir.

Q. Was his mother with him? A. No.

Q. Where did you meet his mother? A. The first day of the trial.

Q. Where? A. Coming in from New York.

Q. When was that? A. Monday or Tuesday.

Q. The first day of the trial? A. Yes, sir.

Q. You didn't come out here the first day of the trial? A. Yes, sir.

Q. Did you come out here Monday or Tuesday? A. Yes, sir.

Q. You have been here ever since? A. Yes, sir.

Q. Listening to this trial? A. Yes, sir.

Q. Do you know what day this is? A. Today?

Q. Yes. A. I think I do.

Q. You have been here since Monday listening to this trial? A. I heard another trial.

Q. Didn't you say this trial? A. Not exactly this trial.

Q. You have been in Paterson four days? A. No, three days.

Q. What day did you come here? A. Tuesday.

Q. It wasn't Monday? A. I am not sure to tell you the truth.

Q. What was it? A. Tuesday.

Q. Can you say surely it was Tuesday? A. Positive.

Q. You were here and Mrs. Karp was with you and her son and you all came up on the train? A. Exactly.

Q. Why didn't you say so? A. From New York into here, that wasn't up to me.

Q. You had to employ a man to work days and nights? A. Yes, sir.

Q. To take your place and Mr. Karp's place? A. He has not been working for me since the Friday he got arrested.

Q. Didn't you take him back? A. He didn't want to come back. He said he couldn't work he had too much trouble on.

Q. Was he working for you on March the sixth? A. Yes, sir.

Q. Days or nights? A. Days.

Q. What time did he go to work on March the sixth? A. I don't know the time in the morning but I know the time he pulled in.

Q. When you pulled in in the morning, Karp wouldn't be there, would he? A. No, sir.

Q. You would arrive at four? A. To tell you the truth there is no specified time.

Q. What was your average hour of pulling into the garage when your night's work was done? A. Three or four o'clock.

Q. You were through until the next night when you went back to work? A. Yes, sir.

Q. You wouldn't know what time Karp came to take the car out in the morning? A. No, sir.

Q. When you put the car away, it is four o'clock. A. About that time.

Q. On the sixth was it in good condition? A. Running fairly well.

Q. Did you have any trouble with it that night? A. I had a lot of trouble with it after.

Q. Did you have any trouble? A. I had a little trouble but I didn't do what I should do.

Q. Did you have trouble on what? A. The gas line.

Q. The car didn't stop running while you were out on the sixth? A. I told you I don't think so.

Q. When you put it away, it was all right? A. Yes, sir.

Q. It came in under its own power? A. Yes, sir.

Q. Are you married? A. No, sir.

Q. Do you board? A. I live with my folks.

Q. You board with your folks? A. I live with my folks.

Q. What is your telephone number? A. What do you mean?

Q. What is it? A. Edgewater one three one seven.

Q. You got a call at Edgewater one three one seven on March the seventh, nineteen hundred and twenty-five from your garage, what is the number of your garage?

Mr. Ward: I object to that, this witness couldn't say where he got it from.

Q. Did Mr. Karp tell you where he was? A. He did.

Q. Where did he say he was? A. He says, "I am stuck down into the garage."

Q. Whose garage? A. The B. & G. garage.

Q. Where you keep your car? A. Yes, sir.

Q. Did he say he was telephoning from there? A. I didn't ask him.

Q. Do you know what the telephone number of the B. & G. garage is? A. No, sir.

Q. How long have you kept it there? A. Since I got it.

Q. And you don't know what the telephone number is? A. No, sir.

Q. Didn't you ever call it up? A. No, sir.

Q. Not once? A. No, sir.

Q. And you parked your car there since February? A. Yes, sir.

Q. Did he telephone to you at Edgewater one three one seven on March the seventh, nineteen hundred and twenty-five, at what time? A. Between half past six and seven o'clock.

Q. Between six-thirty and seven A. M. A. Yes, sir.

Q. You received the call? A. Yes, sir.

Q. Where is the telephone in your father's house? A. In the dining room.

Q. Who answered the phone? A. My mother did.

Q. Were you in bed? A. I was.

Q. Did you get right up? A. I did.

Q. What time did you go to bed? A. As soon as I got home.

Q. What time? A. It might have been three or four.

Q. You didn't get in until four? A. And then I went to bed.

Q. How far is your house from the garage? A. Let's see, two and two is four, not more than six blocks.

Q. You went back to the garage at six-thirty? A. Six-thirty or seven o'clock.

Q. How long did you stay there? A. About half an hour I imagine.

Q. Did Karp tell you he called you up from the garage? A. The only thing I really did ask him is "What is the matter?"

Q. What did he say? A. He said, "I can't start the car." I said, "All right, I will be right down."

Q. He had worked for you or with you on the sight-seeing bus how many months or years? A. The most I imagine he worked on it was three or four weeks, this is last year I am referring about to the sight-seeing bus.

Q. Nineteen hundred and twenty-four? A. Yes, sir.

Q. What work did he do when you knew him before? A. I knew him to be a helper or driver on a truck.

Q. An automobile truck? A. Yes, sir.

Q. How long did you know him to be working on automobile trucks? A. He told me he drove. I didn't know him so well.

Q. How long? A. It might have been a year or more.

Q. So far as you have known him he has worked around automobiles more than two years? A. I can't answer that.

Q. Still when you came down, he says the car won't run? A. No.

Q. It took you how long to fix it? A. Twenty, twenty-five minutes or half an hour at the most.

Q. What did you do? A. Clean out the gas line.

Q. How did you clean that out? A. Took it out with a pair of pliers and blew that out.

Q. How did you blow that out? A. With my mouth.

Q. And that took you a half an hour? A. It might have taken twenty minutes or twenty-five, I can't say exactly.

Q. Where did you go when you fixed the car? A. He took me to One hundred and Third Street and Lexington Avenue and left me there and I went home to sleep.

Q. What time did you get home to sleep? A. Sometime about eight o'clock.

Q. Did you sleep all day? A. Yes, sir, I had a very good sleep.

Q. What time did you go on shift that afternoon? A. About half past four.

Q. What were Mr. Karp's hours in the daytime? A. In the morning he could pull out any time he wants but around four or half past four he has to bring the car back in the neighborhood but that is to give me a start at night.

Q. From the time he leaves in the morning until half past four you don't see Karp in that time? A. No, sir.

RE-DIRECT EXAMINATION by Mr. Ward:

Q. But you did see Karp at eight o'clock or shortly after that morning? A. I did, yes, sir.

Q. Did he give you the proceeds of the day that night? A. Every day.

Q. On the seventh of March, did he give you the proceeds of what he collected? A. Do you mean the pickings of the car?

Q. Yes. A. Yes, sir.

Q. Do you remember what it was? A. No, sir, I can't recall.

RE-CROSS EXAMINATION by Mr. Stafford:

Q. How much was it? A. I cannot recall.

Q. Did he give you the money? A. Yes, sir.

Q. Do you remember how much? A. Most days it could have been fourteen to fifteen dollars.

Q. Was that his custom to hand it over to you? A. I made him when I took the car at half past four every night.

Q. You never missed? A. No, sir.

PHILIP LESSER sworn for the defense.

Direct-examination by Mr. Ward:

Q. What is your business? A. Insurance agent.

Q. Whereabouts, what town? A. New York City.

Q. Whereabouts? A. Brooklyn.

Q. What part of Brooklyn? A. Borough Hall.

Q. Where do you live? A. The Bronx.

Q. Whereabouts? A. Eleven hundred and twenty-six Union Avenue.

Q. Do you know the defendant, Karp? A. I do.

Q. How long have you known him? A. A number of years.

Q. How long have you known Karp? A. A number of years.

Q. Have you known persons who lived in the vicinity in which he lived during that period of time? A. I did.

Q. Prior to March the seventh, nineteen hundred and twenty-five, do you know what his reputation was in the neighborhood in which he resides for being a good upright, honest young man? A. I certainly do.

Q. What was it? A. Good.

Q. Do you remember hearing about his having been arrested? A. No, sir.

Q. You heard about his having been arrested on the thirteenth of March? A. I did.

Q. You heard about that. With that date in mind do you remember the Saturday before the thirteenth? A. I do.

Q. Did you see Mr. Karp on the Saturday before the thirteenth, which would be the seventh of March, nineteen hundred and twenty-five? A. I did.

Q. Where did you see him? A. At One hundred and Third Street and Lexington Avenue.

Q. Where was he standing there or walking? A. He was sitting on his cab.

Q. At what time was that? A. It was a little before eight-thirty.

Q. How do you fix that time in your mind? A.

I had to meet a party at eight-fifteen and I was late.

Q. What did you do so far as Karp was concerned, if anything? What happened between you and Karp? A. I told Mr. Karp to drive me to One Hundred and First Street and First Avenue.

Q. Did he actually drive you there in his taxicab? A. Yes, he certainly did.

Q. I am now referring to this Solly Karp, sitting over there? A. Yes, sir.

Q. That you are sure was on March the seventh, nineteen hundred and twenty-five? A. Yes, sir.

Q. At a little before eight-thirty in the morning? A. Yes, sir.

CROSS-EXAMINATION by Mr. Stafford:

Q. How long have you been in the insurance business? A. One year.

Q. What was your business before that? A. Real estate.

Q. How long have you been in the real estate business? A. Seven or eight years.

Q. Where was your office? A. Two hundred and Ninety-nine Broadway.

Q. Have you ever been convicted of a crime? A. No, sir.

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

Q. Do you know where Mr. Karp lives? A. I don't know.

Q. Do you know anybody who lives on his street? A. Yes, sir.

Q. Who? A. I know a young lad and his people.

Q. Mention the name of one family that lives on

the street Mr. Karp lives on? A. Herman Rappaport.

Q. What street does he live on? A. One hundred and Third Street.

Q. What number? A. One hundred and twenty-two, room four.

Q. What is it, a boarding house? A. An apartment house.

Q. He lives on the street Mr. Karp lives on? A. I think so.

Q. Don't you know? A. I don't know what street he lives on.

Q. What street? A. One Hundred and Third.

Q. Who told you? A. He did.

Q. How did you happen to ask him? A. I asked him.

Q. What for? A. Curiosity.

Q. You asked him where he lived out of curiosity? A. Yes, sir.

Q. How long ago is that, a month? A. Year.

Q. A year ago? A. Year or two.

Q. Two years? A. I can't say.

Q. You have never been to his house? A. No, sir.

Q. You live how many miles from his neighborhood? A. Seven miles for the last two months.

Q. Prior to two months ago how far did you live from him? A. A quarter of a mile, less than a quarter of a mile.

Q. Where was that? A. One Hundred and Sixth Street.

Q. Between what avenue? A. Between Park and Madison Avenues.

Q. That is less than a quarter of a mile from where he lives? A. Yes, sir.

Q. Did you ever have any business dealings with him? A. I did.

Q. What business dealings? A. Driving.

Q. Driving? A. He drove me several times in taxis, that is, most of the time.

Q. What is? A. Most of the time I used taxis I used to go in his taxi.

Q. Where would you find him? A. Generally at One hundred and Third Street and Lexington Avenue.

Q. He was stationed there? A. If he would be, I took it if not I took somebody else.

Q. That was his station? A. I don't know if that was his station but I used to find him there.

Q. You used to look for him? A. I wouldn't look for him but took him in preference to somebody else.

Q. You would walk from your office nearly a quarter of a mile away merely to get his taxi?

Objected to by Mr. Ward.
(Question withdrawn.)

Q. Would you walk nearly a quarter of a mile? A. No.

Q. Why would you go to look for him? A. I used to go out of the station at One Hundred and Third Street, no matter where I came from.

Q. Do you remember when you first started to ride his taxicab? A. I don't know.

Q. Do you remember how long ago, about how long ago? A. Probably seven or eight months.

Q. Was that the taxicab owned by Mr. Eckart? A. I don't know.

Q. Did you ride in it last winter? A. I did.

Q. Before Christmas? A. I did.

Q. You did? A. Perhaps I did.

Q. You said seven or eight months ago, you know what month this is? A. I do.

Q. What month is it? A. March or April.

Q. Do you know when you first started to ride in this taxi? A. Several months ago.

Q. Seven or eight months ago? A. I cannot say.

Q. Why did you say so before? A. I imagined that would be that long.

Q. Wouldn't that be before Christmas last year? A. It would.

Q. Don't you know he had only been driving this cab since last February? A. I don't know which cab he drives but he drove several other cabs.

BERTHA KOSTLER sworn for the defense.

Direct-examination by Mr. Ward:

Q. You reside in New York? A. Yes, sir.

Q. Are you the fiancee of Mr. Eckart? A. I am.

Q. Do you remember the seventh of March, nineteen hundred and twenty-five? A. I do.

Q. Do you remember Karp having been arrested the following Friday? A. Yes, sir.

Q. Do you or not recall? A. I do.

Q. With that in mind do you recall the Saturday before his arrest or not? A. Yes, sir.

Q. Did you see him on that day? A. Yes, sir.

Q. Where? A. Over at my friend's house.

Q. What time? A. Between four and four-thirty.

Q. What was his condition and demeanor? A. I thought he was working all day, he had his working clothes on.

Q. Did he act unnatural or how? A. As I always seen him.

Q. Are you acquainted with people who reside in

the neighborhood in which he resides on One Hundred and Third Street? A. I am.

Q. Do you know what his reputation was prior to March the seventh, nineteen hundred and twenty-five, in that neighborhood for being a good, upright, honest, young man? A. Yes, sir.

Q. What was it, good or bad? A. Good.

CROSS-EXAMINATION by Mr. Stafford:

Q. How long have you been engaged to him? A. A year and half.

Q. You knew he had been arrested last December? A. Who?

Q. Mr. Karp? A. No.

Q. You are his fiancee? A. No.

Q. Whose fiancee are you? A. Mr. Eckart's.

Q. How long have you known Karp? A. Since he had been in my friend's employ to talk to but I knew him at sight before that.

Q. Have you been up here since Monday on this trial? A. No.

Q. When did you come? A. Today.

Q. With whom did you come? A. Mr. Eckart, the man who was just on the stand.

Q. Did you talk the matter over with him? A. Not at all.

Q. Didn't you ever discuss it with him? A. I was surprised he was implicated in it.

Q. Didn't you talk the case over with Mr. Eckart? A. That is what I said.

Q. How do they know you knew you saw him on March the seventh? A. I said it.

Q. Do you know how Mr. Karp came to subpoena you today? A. My friend asked me to come up be-

cause I was over to his house that day, March the seventh, and the following Saturday, my friend told me about Mr. Karp being arrested and I said, "Why I was over to your house on Saturday and I saw him come over and hand you the money."

Q. Mr. Eckart is the man who owns the cab that Mr. Karp drives? A. Yes, sir.

Q. And you were over to his house? A. Yes, sir.

Q. What time? A. Up to four. I was over about one-thirty and I was there all afternoon.

Q. Do you work? A. Yes, sir.

Q. Where? A. On One Hundred and Tenth Street.

Q. What are your hours? A. I have all hours but generally nine to six, on Saturday to twelve or half past twelve.

Q. Don't you ever go back in the afternoons to work? A. No.

Q. Never once? A. No.

Q. What time did you quit last Saturday? A. About ten to one.

Q. Did you see Mr. Eckart last Saturday? A. Yes, sir.

Q. Do you see him every Saturday? A. Yes, sir, every Saturday I go over to his house.

Q. What time do you get there? A. I take the car it takes me five minutes, I take the Lexington Avenue car.

Q. Did you say you saw Mr. Karp at Mr. Eckart's house on this Saturday? A. I seen him give him the car about four or four-thirty. I was at his home when he gave him the car.

Q. Didn't Mr. Karp return the taxicab to the garage? A. Not to my knowledge.

Q. Were you there? A. I saw him give him the car and he went with him.

Q. You saw Karp give Eckart the car and the money? A. And the money.

Q. In his house? A. Not in the house, on the street.

Q. You just say you saw him give him the money? A. You said that.

Q. You didn't see him give him any money? A. No.

Q. You were with Mr. Eckart all the time Mr. Karp was there? A. Yes, sir, I was in the house.

Q. Did Mr. Karp come in the house? A. He just called him through the window.

Q. Did Mr. Karp stand on the sidewalk? A. Yes, sir.

Q. Then Mr. Eckart stood in the house? A. No, he went out.

Q. Were you with him? A. I looked through the window and he went out and got in the cab.

Q. Mr. Karp and Mr. Eckart? A. Yes, sir.

Q. And you remained alone? A. Yes, sir.

Q. Are you in the habit of staying in the house alone? A. Only until about six or seven.

Q. Alone? A. No, with his mother and sister.

Q. Did you see Mr. Karp again that day? A. No.

Q. Did you see Mr. Eckart again that day? A. No.

Q. When did you next see him? A. Sunday.

Q. At what time? A. At about four o'clock.

Q. Where? A. Over at his house.

Q. Mr. Karp's? A. I seen Mr. Eckart there but just went in and told him I was going some place.

Q. Did you see Mr. Karp bring the cab that day? A. No.

Q. Did you ever either before or after March seventh, nineteen hundred and twenty-five, see Mr. Karp return the car to Mr. Eckart in front of his house? A. Yes, sir.

Q. How often? A. The previous Saturday I think.

Q. Do you remember the condition of the weather? A. No.

Q. Was it raining? A. Not to my knowledge.

Q. Some snowing? A. I don't think so.

Q. Was there any snow on the ground? A. Not to my knowledge.

Q. Do you always visit Mr. Eckart on Saturday? A. Every Saturday afternoon.

SOLLY KARP sworn for the defense.

Direct-examination by Mr. Ward:

Q. You are the defendant mentioned, one of the defendants mentioned, in these two indictments, are you not? A. Yes, sir.

Q. How old are you? A. Twenty-three.

Q. When did you leave school? A. Nineteen hundred and sixteen.

Q. After that what did you do? A. Work.

Q. Have you ever been convicted of any crime? A. No, sir.

Q. Where did you work? A. I worked in a paper supply shop.

Q. You have a cold? A. Yes, sir.

Q. That makes it difficult for you to talk? A. Yes, sir.

Q. Tell us the different places you worked? A. I worked in the hat works and I worked for a trucking company, drove a truck, and I went down and got my hack license and drove a cab.

Q. When did you get your taxi license? A. A little over eight months.

Q. From that time on you have driven a cab? A. Yes, sir.

Q. When did you work for Mr. Eckart? A. Somewheres around February.

Q. Have you always worked in your life? A. Yes, sir.

Q. With whom have you lived? A. My mother.

Q. Something has been said about some trouble that occurred in a restaurant. Just explain to the Court and jury what happened? A. Yes, sir.

Q. Tell us. A. It was on the opening night on a Saturday, and a couple of friends I knew opened that restaurant, and I walked into the restaurant and it was crowded in front and they told me if I didn't mind using the back, I could go in and another fellow said, "If you don't mind, you can go in the back and sit at a table," and we walked in the back and all of a sudden the special service men came in and happened to find a blackjack on one of the fellows.

Q. One of the fellows at your table had a blackjack? A. Yes, sir.

Q. Did they take the whole crowd? A. Yes, sir.

Q. Up to that time had you ever had any trouble? A. No, sir.

Q. What happened the next morning? A. It was thrown out of court, discharged.

Q. Is that the only trouble you have ever had? A. Yes, sir.

Q. You were immediately discharged the next morning on hearing? A. Yes, sir.

Q. Did you meet Mr. Unger that night? A. I never seen him before.

Q. I mean that night did you see this man there? A. I might have, I don't remember.

Q. Was he one of the men who was arrested with you at your table? A. I can't remember.

Q. Did you ever know him before that? A. No, sir.

Q. Did you ever meet him after that to your knowledge until you saw him in the county jail? A. No, sir.

Q. You don't remember whether he was one of the men arraigned in the morning or not? A. No, sir.

Q. Have you ever had any association with Mr. Unger? A. No, sir.

Q. Have you ever gone out with him? A. No, sir.

Q. Have you ever been in his company? A. At no time.

Q. Except possibly this one night that you were arrested? A. Yes, sir.

Q. You mean that was the only time it might have happened? A. Yes, sir.

Q. You went to work for Mr. Eckart at what time? A. At March seventh.

Q. When did you first go to work for him? A. In February.

Q. Were you working for him on March the seventh? A. Yes, sir.

Q. At what time did you arrive on March seventh? A. Quarter to seven.

Q. Who awakened you, who resides with you, who aroused you? A. My mother.

Q. Is she the lady who was on the stand? A. Yes, sir.

Q. What time did you get to the garage? A. About five minutes to seven.

Q. What did you find there? A. The car in the garage.

Q. What condition was the car in? A. I tried to get the car started and couldn't get it going so I went

and called my boss up, he was sleeping yet, but somebody must have awakened him up in the house, and I told him I couldn't get it started so he told me he would be right over and in the meantime I was waiting and he got over to the garage and fixed it.

Q. As a matter of time what time do you usually start out from the garage? A. Seven or eight o'clock.

Q. What were your duties with reference to the car? A. To put gas and water and oil in it and wipe it a little bit and go out to work.

Q. You come to work usually about seven o'clock? A. Yes, sir.

Q. Can you tell us about what time you usually went out? A. Half past seven the latest.

Q. On this morning did your boss come to the garage? A. That morning?

Q. Yes. A. Yes.

Q. What happened? A. He fixed the car.

Q. What time did you pull out? A. About eight o'clock.

Q. Where did you take him? A. To One hundred and Third Street and Lexington Avenue.

Q. Then what did you do? A. Stood on the corner.

Q. Did you pick up any fare? A. Yes, sir.

Q. What fare? A. Mr. Lesser came over to me.

Q. That is the gentleman sitting there who testified for you? A. Yes, sir.

Q. Did you know him before? A. Yes, sir.

Q. He came over at what time? A. Around half-past eight.

Q. Where did you take him? A. To One Hundred and First Street.

Q. What time did you get back from that job? A. Figure about ten minutes.

Q. Did you hack around the rest of the day? A. I stood on the corner for awhile.

Q. Were you in Paterson that day at all? A. No, sir.

Q. Were you present at River Street before the Manhattan Shirt Company and did you point a revolver at any man? A. No, sir.

Q. Did you ever have a revolver? A. No, sir.

Q. Did you ever have a revolver in your possession? A. No, sir.

Q. You hacked around in the meantime until what time? A. I stayed for ten or fifteen minutes and then a woman and a man hired me and I took them to the Bronx and then I dropped them off and I just kept cruising around.

Q. Where did you go? A. Around the town.

Q. What time did you get through that night? A. A little after four.

Q. Do you remember going to Mr. Eckart's house? A. Yes, sir.

Q. Did you turn over the proceeds of the day or not? A. Yes, sir.

Q. Where did he go? A. He went over to the garage and filled the car with gas and oil and went to work.

Q. Where did you go? A. I went home.

Q. That composed your entire day, did it? A. Yes, sir.

Q. You were arrested or at least taken into custody by the gentlemen from Paterson from the police department here? A. Yes, sir.

Q. When was that? A. On the thirteenth of March.

Q. That was the following Friday? A. Yes, sir.

Q. Is there any doubt in your mind as to what happened on the seventh of March? A. No, no doubt about it.

Q. Where were you taken by Mr. Murphy and the other gentleman? A. Out of a restaurant.

Q. Where did you go then? A. To the One Hundred and Fourth Street station house in New York.

Q. Had you ever had any other connection in any way with Mr. Unger than the exception with your having been arrested at some restaurant at the same time in the same restaurant he was? A. No, sir.

Q. Were your finger prints taken? A. Yes, sir.

Q. Were they taken in Paterson? A. Yes, sir.

Q. When you were taken into custody by these gentlemen where did they take you? A. To the One Hundred and Fourth Street station house in New York.

Q. Who was the man that was with you when you were arrested that night with the black jack? A. Harry Gerskowitz.

Q. You knew him? A. I worked with him together.

Q. You were taken to what precinct? A. The One hundred and fourth.

Q. Did you see Mr. Walsh here? You saw Officer Walsh and Officer Lynch? A. Yes, sir.

Q. Did they take you into custody then? A. No, sir.

Q. Where were you taken by them if anywhere? A. I was brought to another station and they put me in a back room.

Q. Then Walsh and Lynch came in? A. Yes, sir, and he asked me, "Do you know anything about March the seventh, a week ago last Saturday, there was a hold-up in Paterson, New Jersey?" I said, "I don't know," and he picked up his hand and pushed me in the stomach.

Q. Just stand up and let's see how big a man you

are. What else did he do? A. I couldn't catch my breath and then they brought in another man and he said, "Do you know this man," and I said, "No, sir," and he said, "Are you sure," and I said, "Positively," and he hit me again.

Q. How many times did he hit you altogether? A. Quite a few times.

Q. Where? A. On the head, in the stomach and all over my body.

Q. Did you or not tell the story you are telling now? A. I told the truth.

Q. Did you or not tell them what you are telling now? A. They knew it, they saw me driving a cab every day.

Q. Did you know Walsh before that? A. Yes, sir.

Q. Had you ever driven Walsh in your taxi? A. Yes, sir; many times.

Q. With what did they hit you? A. Black jack.

Q. After that what happened? A. They went outside and they came in and put an old coat on me and a hat and put me amongst four men, four big men, with peaked caps on and then Walsh said, "You look good now I will fix you up right," and he went in the back of the station house and came out with a small man and he looked at me standing in the line and then walked away with the man again.

Q. This man that came out, did he say or do anything when they walked away? A. No.

Q. Did they do anything? A. He shook his head and then walked away with Mr. Walsh.

Q. How long was he away with Mr. Walsh? A. About five minutes.

Q. Then what happened? A. They took me in the back room and told me to take my clothes off.

Q. Did you see a Mr. Quaine, who was on the

stand? A. I took my clothes off and they took a look at me and walked out again and Mr. Walsh walked out with him.

Q. You were alone? A. Yes, sir, and Detective Walsh and Lynch came in and locked the door and started to hit me with black jacks for how long I don't know.

Q. They hit you so much you fainted? A. Yes, sir.

Q. Do you know how they revived you? A. They spilled out water.

Q. How did they take you out of the place? A. By my hair, they picked me right up this way.

Q. After that did they do anything to you? A. After that they started hitting me until I went down to the floor again and they said, "You better tell the truth." And I said, "I am telling the truth, you know me and as long as you know me I have been a working fellow and you seen me every day in my work," and he said, "Well, you better tell the truth or tell us about something." I said, "I can't tell you about anything," and they kept on hitting me.

Q. You came over to Paterson here afterward? A. Yes, sir, afterward.

Q. As a matter of fact did you go to the District Attorney's office and sign a waiver of examination and then come here so as to get over here? A. Yes, sir.

Q. After that you came over and went out on bail? A. Yes, sir.

Q. Do you know who went your security?

Mr. Stafford: I object to it as immaterial.

Objection sustained.

Defendants except. Exception allowed and signed and sealed accordingly.

JOS. A. DELANEY,
Judge.

Mr. Ward: I would like your Honor to hear me.

The Court: Who went this man's security is of no concern to the jury.

Mr. Ward: If your Honor please I don't want the jury to get the impression—

The Court: Wait a moment, there is nothing before the Court.

Q. Did any friend of yours put up the security upon which you were released on bail?

Mr. Stafford: I object to the question as immaterial.

Objection sustained.

Defendants except. Exception allowed and signed and sealed accordingly.

JOS. A. DELANEY,
Judge.

Mr. Ward: Won't your Honor permit me to—

The Court: Your exception will be noted on the record.

Q. You were released upon bail? A. Yes, sir.

Q. Was any of the money that was put up for security for your release on bail, was any of the security yours? A. No, sir.

Q. When this meeting was taking place as you have described, when they knocked you unconscious or into a faint with whom were you? A. All alone.

Q. What detectives were there? A. Walsh and Lynch.

Q. In a back room? A. Yes, sir.

Q. Was the door closed or open? A. Closed.

Q. The Paterson men were not there? A. No, sir.

Q. Afterward do you remember when Mr. Cohn came down to represent you? A. I remember that.

Q. Were you permitted to see him, Mr. Cohn? A. They didn't let me.

CROSS-EXAMINATION by Mr. Stafford:

Q. This room where you were arrested with Mr. Unger on December twenty-eighth is located where? A. Thirty-one East Ninety-eighth Street.

Q. What is the establishment or business conducted there? A. A restaurant.

Q. At that time? A. A restaurant.

Q. What time did you enter the restaurant? A. About twelve-thirty.

Q. Where did you go when you entered the restaurant? A. They told me there is plenty of room in the back.

Q. Did you go into the restaurant room? A. Yes, sir.

Q. Did you go in alone? A. No, sir.

Q. Who went with you? A. A fellow by the name of Pagano.

Q. When you went into the back where did you go? A. We sat down at a table.

Q. How did you get at the table, where did you go? A. We went right in the back and sat at a table, there was plenty of room.

Q. You went through the kitchen of the restaurant? A. Yes, sir.

Q. And went into another room? A. Yes, sir.

Q. How big was that room? A. Quite big, it has a big round long table, the table is as long as this here and there was quite a few chairs around it.

Q. That is all in the room? A. Some fellows.

Q. How many? A. I don't remember.

Q. At your table? A. Not with us.

Q. When you went in there with Pagano how many were seated there? A. Three or four.

Q. That was at twelve-thirty? A. Yes, sir.

Q. Did you know any of the other men at the table? A. Yes, sir, one.

Q. Who? A. Harry Gerskowitz.

Q. Did you know who the other men were? A. No.

Q. Did you, what did you do? A. I ordered something to eat and they were making a steak and they were busy.

Q. How long did you stay in the room? A. For about over half an hour.

Q. Was the steak delivered to you? A. I was still waiting for it, they were busy, it was the opening night.

Q. Did they deliver it to you at all that night? A. Yes, sir, it was about a quarter of one when I got my steak.

Q. You got there at twelve-thirty? A. Yes, sir.

Q. Did your friend have to wait for his order? A. Yes, sir.

Q. How long did he have to wait? A. He got his the same time I got mine.

Q. Were the other men eating? A. No, sir.

Q. Drinking? A. No, sir.

Q. Were there any dishes, glasses or bottles on the table? A. I didn't notice it.

Q. What time did you finish your meal, you and Pagano? A. After one.

Q. About how long after one? A. One-thirty.

Q. Did the other men still remain at the table? A. Yes, sir.

Q. Were they drinking? A. No, sir.

Q. Were they eating? A. No, sir.

Q. So from twelve-thirty to one-thirty they hadn't had anything to eat or anything to drink? A. No, sir.

Q. At one-thirty what did you and Pagano do? A. I was about to go home when the special service squad came in.

Q. Did anybody come in before? A. I saw one fellow come in.

Q. Do you know what fellow that was? A. I didn't recognize him.

Q. Don't you know now? A. No, sir.

Q. Didn't you hear Unger say that he was the man? A. I don't know that is the man, he may say that but I don't know.

Q. Don't you know now he was the man? A. Now I do.

Q. How long was he in the room when this special service squad burst in? A. A few minutes.

Q. How many minutes? A. Two or three minutes.

Q. Was he speaking to anybody? A. I didn't notice it.

Q. Didn't he sit down at the table? A. No, sir.

Q. Where did he go? A. I saw he was trying to put his hand on a coat.

Q. Where was your coat? A. My coat was in the back too.

Q. Where was Pagano's coat? A. In the back.

Q. Were there any other overcoats there? A. Yes, sir.

Q. How many? A. Quite a few.

Q. How many? A. I can't tell you.

Q. Who had the black jack? A. Harry Gerskowitz.

Q. The man you knew? A. The man I used to work with.

Q. The man you knew? A. Yes, sir.

Q. Is he the man who was convicted? A. Yes, sir.

Q. Wasn't it Pagano that was convicted? A. Not that I know of.

Q. Don't you know? A. No, sir.

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

Q. You know he is in Sing Sing, don't you?

Mr. Ward: I object to the question. We are not trying Pagano.

The Court: It goes to the credibility of the witness.

Defendants except. Exception allowed and signed and sealed accordingly.

JOS. A. DELANEY,
Judge.

Q. You know he is in Sing Sing, don't you?

Objected to by Mr. Ward.

Objection overruled.

Defendants except. Exception allowed and signed and sealed accordingly.

JOS. A. DELANEY,
Judge.

A. Not until I got here, I never knew it.

Q. Didn't you tell the police you didn't know any of the men sitting in the restaurant? A. No, sir.

Q. How many did you tell them you knew? A. Harry Gerskowitz and Anthony Pagano.

Q. You told them that when you were arrested you knew these two men? A. Yes, sir.

Q. Do you know what time the officers went into that back room? A. I don't remember the time, it must have been around one or one-thirty.

Q. Do you know the officers that went into the room? A. No.

Q. Moffet and the others? A. I can't recognize them.

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

Q. There were four masks on the table, Mr. Karp, were there not? A. No, not on the table.

Mr. Ward: We are not being tried for having four masks or anything of that kind on the table or for any offense that took place at that time and the State is simply laying a foundation to testify to some such fact. That is not proper.

Mr. Stafford: As I understand the defense it is that these men were eating in a restaurant.

The Court: So I understand the testimony. It is absolutely proper and there is nothing before the Court.

Mr. Ward: I object to the question.

The Court: It was answered no.

Q. Gerskowitz had a black jack? A. He did. I noticed it in his hand when the special service men came in.

Q. He was wrapping something around it? A. I didn't notice that.

Q. The officers searched you? A. Yes, sir.

Q. They searched all of you? A. Yes, sir.

Q. Do you know what they confiscated that night?

Mr. Ward: I object to the question as irrelevant and immaterial.

The Court: The question is admitted.

Defendants except. Exception allowed and signed and sealed accordingly.

JOS. A. DELANEY,
Judge.

Q. From you, Pagano, Gerskowitz, Unger and the other man? A. I don't understand.

Q. What did they take off you? A. Nothing.

Q. What did they take off Pagano? A. I don't know what they took.

Mr. Ward: I object to the question.

Objection overruled.

Defendants except. Exception allowed and signed and sealed accordingly.

JOS. A. DELANEY,
Judge.

Q. There were no dishes on the table when the officers went in there, was there, Mr. Karp? A. There was.

Q. Were there cups and saucers? A. Mine were there.

Q. Were there bottles? A. One bottle.

Objected to by Mr. Ward.

Objection overruled.

Defendants except. Exception allowed and signed and sealed accordingly.

JOS. A. DELANEY,
Judge.

Q. Glasses? A. Yes, sir.

Q. Then you were brought to the police station, were you not? A. Yes, sir.

Q. And you can't identify these two officers, that were the two officers that arrested you? A. No, sir.

Q. You say they were prohibition detectives? A. Yes, sir.

Q. Don't you know they are members of the Department of New York? A. I don't know.

Q. You don't know that, do you? A. I knew they were officers but I didn't know who they were.

Q. Didn't you say they were prohibition officers? A. Yes, sir.

Q. Was there a man sitting against the door?

Mr. Ward: I object to that.

The Court: I will admit it.

Defendants except. Exception allowed and signed and sealed accordingly.

JOS. A. DELANEY,
Judge.

A. No, sir.

Q. Didn't the officers have to push the door in? A. No, sir.

Objected to by Mr. Ward.

Objection overruled.

Defendants except. Exception allowed and signed and sealed accordingly.

JOS. A. DELANEY,
Judge.

Q. What? A. No, sir.

Q. When you were brought back to Paterson, Mr. Karp, Captain Mosley handed you a picture of Unger? A. Yes, sir.

Q. And you denied ever having seen the man before? A. I did.

Q. Captain Mosley asked you where you were on the morning of the seventh of March, didn't he? A. Yes, sir.

Q. With the other detectives there, is that true? A. Yes, sir.

Q. And didn't you tell Captain Mosley and the other detectives that you slept until twelve-thirty o'clock at noontime? A. No, sir.

Q. Didn't you say also, tell the detectives, you were out and stayed around the block after which you loafed all the afternoon? A. No, sir.

Q. And after that that you had gotten a shift on a taxi in the afternoon? A. I was on a shift on the afternoon on Saturday.

Q. You told them that? A. I did.

Q. And at six o'clock you went to the corner of Lexington Avenue and Third Street and stayed there until eleven P. M.? A. I did.

Q. And then went home? A. I did.

Q. In your taxi? A. Not in the taxi.

Q. You didn't have a taxi all day? A. I worked that morning.

Q. About an hour later did Captain Mosley then question you again? A. I don't know.

Q. Then didn't you tell him on this occasion that you got out of bed at nine A. M. and went to the corner of East One Hundred and Third Street and Lexington Avenue and jockeyed a taxi until eleven-thirty A. M.? A. That is the taxi I was on all morning.

Q. Didn't you say in the afternoon you jockeyed on a taxi until four-thirty up to six P. M.? A. I don't know.

Q. Didn't you also say you jockeyed a taxi from eight P. M. until eleven-thirty that night? A. I did not, no, sir.

Q. Whose taxi was it? A. Eckart's.

Q. Did you ever own a taxi? A. Did I, I did.

Q. When? A. Before New Year's.

Q. Where did you keep it? A. The Ninety-seventh Street garage.

Q. Did you do your own repairs? A. No, sir.

Q. Why? A. I didn't know how.

Q. You have worked on an automobile how long? A. Three years.

Q. And you can't repair a car? A. No, sir.

Q. Do you recall where you were on March sixth, nineteen hundred and twenty-five? A. Yes, sir.

Q. Where? A. Working.

Q. What time did you go to work? A. The same time I go every day.

Q. What time? A. Seven or a little after seven.

Q. What time did you quit work? A. A little after four.

Q. Then where did you go? A. Home.

Q. How long did you stay home? A. I washed up and then went downstairs.

Q. Downstairs where? A. Around the block.

Q. How long did you stay there? A. A few hours until ten o'clock or ten-thirty.

Q. Then where did you go? A. Upstairs to sleep.

Q. Then what time did you get up? A. My mother woke me up at six o'clock or a little after six.

Q. What time did you leave the house? A. Before seven.

Q. How long before seven? A. Fifteen to twenty minutes before seven.

Q. Then where did you go? A. To the garage.

Q. What time did you get to the garage? A. About ten minutes to.

Q. How far is the garage from your house? A. One Hundred and Fourth Street.

Q. How far? A. About three blocks.

Q. What did you find? A. The car.

Q. Whose car? A. Eckhart's.

Q. What did you do? A. I tried to start it and couldn't.

Q. Why couldn't you start it? A. The starter wouldn't work.

Q. Didn't you have a crank? A. I had tried the crank too.

Q. Did you look to see what the trouble was? A. I did.

Q. Where did you look? A. At his starter.

Q. What part of the starter? A. I looked at the battery.

Q. How was the battery? A. The battery was all right.

Q. Where else did you look? A. That is all I looked at.

Q. How did you get into the garage? A. When I went to work the man that always lets me in was there and I walked in.

Q. What man? A. The owner of the garage.

Q. Is he there at six-thirty or six-fifty? A. Yes, sir.

Q. Was any other taxi driver there at that hour? A. Quite a few.

Q. How many? A. Two or three maybe.

Q. Is that all? A. That is all I saw.

Q. Why didn't you ask them to look at the car? A. Because I never done that because I was always given my orders that I shouldn't ask anybody or let anybody touch the car only the boss and myself.

Q. Your boss gave you those orders? A. Yes, sir.

Q. And that is why you didn't ask the other taxi drivers? A. Yes, sir.

Q. Why didn't you ask the owner of the garage to come over and look at it? A. The owner was busy, very busy, every morning the cars pulled out of the garage and that morning they were doing it.

Q. Why didn't you? A. He refused a couple of times when I asked him.

Q. Did you ask him a couple of times to look at the car? A. Yes, sir.

Q. Didn't your boss tell you to let no one look at it except you and the boss? A. Yes, sir, the boss did.

Q. Then why did you ask him? A. Because I was disgusted, I wanted to go to work.

Q. Weren't you disgusted on this morning, March the seventh? A. Yes, sir.

Q. Then why didn't you go to the owner before? A. Before what?

Q. You went to him once before that when you were disgusted? A. Yes, sir.

Q. Why didn't you go to him then? A. I figured I wouldn't have to wake my boss up.

Q. Why didn't you go to the owner of the garage? A. I did go to the owner of the garage.

Q. What did he say? A. He told me he couldn't get it started, he has not got any time.

Q. Did he come over and look at the battery? A. He didn't.

Q. He didn't go near it? A. No.

Q. Didn't you say your boss told you not to let anybody touch the car but you and he? A. But I did go to the owner of the garage.

Q. Why did you go to him? A. I figured I wouldn't have to wake my boss up after getting through a hard night's work.

Q. After you had gone to the owner of the garage why didn't you go to the other taxi drivers?

Mr. Ward: I submit that he has been asked that question before.

The Court: Proceed.

A. I didn't want to bother them, I didn't want to go over to them.

Q. Why? A. The boss told me not to let anybody touch the car.

Q. You asked the owner? A. The owner knew more than the rest of the men.

Q. He knew more than the taxi drivers? A. Yes, sir.

Q. That is your reason? A. No reason at all.

Q. Did you ring up your boss? A. I did.

Q. Where from? A. The garage.

Q. What is the name of the garage? A. The G. & B. Garage.

Q. Did you ring up your boss? A. I did.

Q. Do you know his number? A. Edgewater 0317.

Q. 0317? A. 1317.

Q. You said 0317? A. I said 1317.

Q. You said Edgewater? A. Yes, sir.

Q. Who answered the phone? A. I asked if Mr. Eckhart was sleeping and she asked me who it is.

Q. A woman answered the phone? A. Yes, sir.

Q. What did you tell her? A. I told her if Mr. Eckhart was sleeping and she asked me who this is. I told her the working man down at the garage and she asked me what is the matter. I said, "I can't get the car started and if you don't mind waking your son up."

Q. Did he come to the phone? A. He did.

Q. What time was that? A. Seven or after seven.

Q. What time did he come back to the garage? A. What time from his home?

Q. Yes. A. A little after seven.

Q. Did you assist him in looking at the car? A. I did.

Q. What did you find? A. He was working on magneto trouble.

Q. Didn't you help him? A. No, I was cleaning the car, around the outside in the meantime.

Q. Didn't you watch him? A. No.

Q. Didn't you know what the trouble was? A. Magneto trouble.

Q. He didn't tell you it was the gasoline pipe, did he? A. Yes, sir, something was the matter with the gasoline pipe, too.

Q. What did he tell you? A. The magneto was fixed and the starter was all right.

Q. He didn't say anything about the gasoline pipe? A. I didn't ask him.

Q. He didn't tell you? A. No, sir.

Q. How long was he there fixing it? A. Maybe half an hour.

Q. Is that all? A. Yes, sir.

Q. Were the other taxi drivers there at that time? A. No, sir.

Q. Was anybody there while you were working on it? A. The boss of the garage.

Q. Did he come over to help? A. No, sir.

Q. What time did you leave the garage? A. Around eight o'clock.

Q. Where did you go? A. One Hundred and Third Street and Lexington Avenue.

Q. Did you have a cab stand there? A. Where?

Q. At One Hundred and Third Street and Lexington Avenue? A. I was standing on the curb there.

Q. Did your employer have a Lexington Avenue cab stand? A. What do you mean, my employer?

Q. Mr. Eckhart, did he have a Lexington taxi station? A. No, sir; but always on that corner a lot of cabs stand on that corner.

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

Q. You were driving a cruiser? A. Yes, sir.

Q. You had no stand? A. No, sir.

Q. You were supposed to drive around until you picked up a passenger? A. Not all the time.

Q. Were you supposed to stand on a corner as you did on Lexington Avenue? A. Yes, sir, you are allowed.

Q. You told the police you were jockeying.

Mr. Ward: I object to that, he has been asked that question.

Objection overruled.

Defendants except. Exception allowed and signed and sealed accordingly.

JOS. A. DELANEY,
Judge.

Q. Didn't you hear your counsel open up your case? A. Yes, sir.

Q. Didn't he say you were jockeying?

Objected to by Mr. Ward.

Objection sustained.

Q. Were you jockeying? A. Yes, sir.

Q. What does it mean? A. Working to drive a cab for somebody else.

Q. Doesn't jockeying mean taking the place of somebody who is temporarily off the cab? A. No, sir, that is the way we call it down in New York amongst one another.

Q. How long did you stand at the corner? A. Twenty minutes.

Q. Then where did you go? A. Mr. Lesser called me and told me to take him to One Hundred and First Street and First Avenue and then I came back and stood there for about twenty minutes and a man and woman came over to the cab and I took them up to the Bronx and then I went cruising around downtown wherever anybody hired me.

Q. What was the second call? A. The man and woman.

Q. What time did you return to that corner? A. I didn't come back.

Q. Where did you go? A. Up to the Bronx or West Side or wherever you could get a call and then I looked downtown where people were going.

Q. What time did you leave the party off in the Bronx? A. It must have been about half-past nine.

Q. Then where did you go? A. I cruised around.

Q. Where? A. Up in the Bronx and going back to Harlem.

Q. How long did you stay in the Bronx? A. I didn't stay any time at all.

Q. You had two calls up to half-past nine? A. Yes, sir.

Q. What time did you get back to One Hundred and Third Street? A. I got back at four-thirty.

Q. Had you had any fares? A. No, sir.

Q. Just two? A. No, I had quite a few fares through the day.

Q. You know Mr. Lesser was one? A. Yes, sir.

Q. And the man and woman you took to the Bronx? A. Yes, sir.

Q. How many others did you have? A. I could say about twenty or twenty-five.

Q. Twenty or twenty-five? A. Yes, sir, maybe more.

Q. From nine-twenty to four-thirty? A. From half-past eight.

Q. How much money did you collect? A. I don't know, over fourteen dollars.

Q. Fourteen dollars? A. And change.

Q. Where was your last call? A. The last call was downtown somewheres around the working section, on the west side.

Q. At what time? A. It must have been a quarter to four.

Q. Then where did you go? A. I went uptown.

Q. Where did you go? A. To One Hundred and Third Street and Lexington Avenue and went in to see if there was any calls in the candy store on the corner and then went back to the car and took my car over to the boss's house on One Hundred and Second Street.

Q. That was what time? A. Four-thirty.

Q. Then where did you go? A. He came out of the house and took a reading and checked up how much money was coming to him and then went over to the garage and put gas and oil in and dropped me off at my house on the way back from his house.

Q. On what day was that? A. March the seventh.

Q. Was it raining? A. No, sir.

Q. Was it raining on March the sixth? A. No, sir.

Q. Are you positive of that? A. Positive.

Q. You have a nick-name, haven't you, Mr. Karp? A. No, sir.

Q. You are known as "Solly, the Blade," are you not? A. No, sir.

Mr. Ward: I object to the question.

The Court: He said no.

Q. Did anyone ever call you that?

Mr. Ward: I object to the question as incompetent and immaterial.

Objection overruled.

Defendants except. Exception allowed and signed and sealed accordingly.

JOS. A. DELANEY,
Judge.

Q. Did anyone ever call you that? A. No, sir.

Q. When Captain Mosley showed you a photograph of Unger you knew that was the man arrested with you in New York? A. No, sir.

Q. Wasn't he put in the same cell with you when you were arrested? A. No, sir.

Q. Who were in your cell? A. Nobody, I was all alone.

Q. You saw him when you were taken out of the restaurant? A. Yes, sir.

Q. Wasn't Unger put in the same cell with you? A. No, sir.

Q. You have testified Officer Walsh beat you up with a black jack? A. Yes, sir.

Q. You were arraigned the next morning before the Magistrate? A. Yes, sir.

Q. Did you complain to the Magistrate the way you had been treated? A. No, sir.

Q. Why not? A. He wouldn't give me a chance to talk.

Q. The Magistrate wouldn't? A. He didn't give me any chance unless I had a lawyer.

Q. Were your eyes black? A. No, sir, but my face was all swollen.

Q. Were there any cuts on your head? A. No, sir, no cut on my head.

Q. Why didn't you tell the District Attorney about it? A. I couldn't talk to anybody.

Q. You were arraigned before a Magistrate? A. I couldn't talk that morning, I was too full of pain.

Q. You couldn't talk because you were too full of pain? A. Yes, sir.

Q. Was Officer Murphy, you remember he was the officer there when you were arraigned? A. Yes, sir.

Q. He was there that morning? A. Yes, sir.

Q. After you were beaten up, that is true, isn't it? A. Yes, sir.

Q. Did you complain to Murphy? A. No, sir.

Q. Did you complain to any of the detectives in Paterson the way this man Walsh beat you? A. No, sir.

Q. Did you ask for a doctor? A. No, sir.

Q. You made no complaint to anybody? A. No, sir.

Q. From the time you were arrested until the time you were admitted to bail? A. Yes, sir, my brother when he came down to see me in the cell, I told him I was all full of pain and he got all het up.

Q. You complained to no one in authority? A. No, sir.

Q. Who were present when you fainted as a result of this beating up? A. Detective Walsh, Lynch and myself.

Q. Just the three of you? A. Yes, sir.

Q. Were Officers Murphy and Stengle there? A. Yes, sir, outside of the room.

Q. Officer Stengle? A. Yes, sir, outside of the room.

Q. He was there? A. He was in the station house, yes, sir.

Q. After you were beaten up by Officer Walsh Officer Murphy and Stengle talked to you? A. Yes, sir.

Q. Where were you when they talked to you? A. In the next room.

Q. Did you tell them, "I am all full of pain"? A. No, sir.

Q. Did you show them a lump on your head? A. They could have seen it.

Q. Did you show them your swollen face? A. No, sir, not to anybody.

Q. Did you endeavor to disclose to anybody that you had been beaten up? A. Outside of my mother and brother and when my counsel's assistant came down I told him about it.

Q. When did you drive Detective Walsh in your cab? A. While I hacked on that corner.

Q. What year? A. Nineteen hundred and twenty-four.

Q. What month? A. I don't remember.

Q. In Mr. Eckart's taxi? A. No, sir.

Q. Whose taxi? A. Somebody else's.

Q. Whose taxi? A. Phil Lanstein's.

Q. You are not working for him? A. A few days I worked for him on or off.

Q. You didn't say that on your direct-examination? A. No, sir.

Q. Why didn't you tell counsel that when he asked you for whom you worked before you went on Eckart's car? A. I only worked for him a few days.

Q. Where did you work for him? A. He used to be on One Hundred and Fourth Street.

Q. Where? A. Harlem.

Q. On what street? A. He used to have that same garage.

Q. Where Eckart was? A. Yes, sir.

Q. How many days did you work for him? A. A few days.

Q. How many days? A. Three or four days.

Q. Where did you pick up Detective Walsh? A. I didn't drive him up in that taxi but I used to pick him up at One Hundred and Third Street and Lexington Avenue. I don't remember when but I was driving taxis then and you might work for one man one day and another man another day.

Q. You knew all the taxi drivers well in this garage? A. Yes, sir.

Q. You knew Phil Lanstein? A. Yes, sir.

Q. Was he there on March the seventh? A. No, sir.

Q. Was his driver there? A. No, sir.

Q. Where did you take Walsh? A. Up in the Bronx some place.

Q. Do you remember what month it was? A. I don't.

Q. Was it before Christmas? A. Yes, sir.

Q. Was it in November? A. I don't remember.

Q. Was it while you owned a taxi? A. Yes, sir.

Q. It was in your own taxi? A. Yes, sir.

Q. And not in Phil Lanstein's? A. No, sir.

Q. How did you come to mention his name? A. I only mentioned his name.

Q. Didn't you say it was his taxi you took Detective Walsh up in? A. No, sir.

RE-DIRECT EXAMINATION by Mr. Ward:

Q. Did you make any effort to have that garage man, the owner of that garage, here today? A. I did.

Q. What was the result? A. He told me he couldn't leave the garage all alone on account of the business.

Q. You did mention on your direct-examination that you had worked for other taxicab drivers? A. Yes, sir.

Q. Driving other taxis? A. Yes, sir.

Q. As a matter of fact, Mr. Karp, at the time you were shown this picture by Captain Mosley did you recognize it as a picture of a man you had ever seen before? A. I did not.

Q. Something was said about a letter received from some man in Sing Sing? A. No, sir.

Q. Well, was that man in Sing Sing as a result of anything that occurred that night in this restaurant? A. No, sir.

ABE JAFFE, sworn for the defense.

Direct-examination by Mr. Ward:

Q. You are connected with the office of Cohn & Cohn? A. I am.

Q. Do you remember being sent by them to visit the jail or station house of the One Hundred and Thirteenth Precinct, where Karp was being held? A. Yes, sir.

Q. Do you know what date that was? A. The seventeenth day of March.

Q. Did you notice his condition at that time? A. I did.

Q. Just describe it? A. As I walked in the prison I asked to see Mr. Karp and the keeper there—

Q. Get down to the point. A. Mr. Karp came down and the first thing I noticed he had was a swelling of the face, his face seemed to be all puffed up, particularly on the left side of the face there was a large scratch and also as I conversed with Mr. Karp—

Q. As a result of the conversation? A. Yes, sir. I put my hand on his head and I felt a lump there.

Q. Whereabouts? A. At the back of his head and later on while I was talking to him Mr. Karp opened his waist up and showed me his stomach.

Q. What was the condition of his stomach? A. There was red spots on his stomach and also some stripes.

CROSS-EXAMINATION by Mr. Stafford:

Q. You are an attorney-at-law? A. No, sir.

Q. You are a student? A. I am.

Q. In whose office? A. Peter Cohn.

Q. Did you represent yourself as being an attorney-at-law when you went over there? A. No, sir.

Q. Who did you go to see? A. I went to see Mr. Karp.

Q. Who did you go to see to get permission to see Mr. Karp? A. At first I went to the court house on Sylvan Place and One Hundred and Twenty-first Street.

Q. Who did you see? A. I went in and spoke to the clerk.

Q. Did you tell him who you were? A. I did.

Mr. Ward: I object to the question as not proper cross-examination.

Objection overruled.

A. I went up and said, "I am from Peter Cohn's office. I would like to enter an appearance here for Peter Cohn."

Q. Did you give them your name? A. No, sir.

Objected to by Mr. Ward.

Objection overruled.

Defendants except. Exception allowed and signed and sealed accordingly.

JOS. A. DELANEY,
Judge.

Q. You didn't even give them your name? A. No, sir.

Q. And the clerk wouldn't let you see him?

Mr. Ward: I object to the question on the ground that it is not proper cross-examination.

Mr. Stafford: Any examination is proper if it affects the credibility of the witness.

Objection overruled.

Defendants except. Exception allowed and signed and sealed accordingly.

JOS. A. DELANEY,
Judge.

Q. Where next did you go? A. I went downstairs to call up Peter Cohn's office in Paterson.

Q. Where did you go, who did you see next? A. I went downstairs and I met an attorney from New York City and I asked him if he wouldn't enter an appearance for Peter Cohn and himself for attorneys for Solly Karp and he said he would.

Q. Who did you next go to see to get permission to visit Karp? A. No one.

Q. How did you see him? A. The attorney I referred to entered an appearance and gave me a card and then I went downtown to the prison.

Q. When did the attorney give you the card? A. At about twelve o'clock.

Q. Where was he when he gave you his card? A. In his office across the street from the court house.

Q. Whose name was on the card?

Mr. Ward: I object to the question as not proper cross-examination.

The Court: I will admit it.

Defendants except. Exception allowed and signed and sealed accordingly.

JOS. A. DELANEY,
Judge.

A. Peter Cohn.

Q. Your name wasn't on the card? A. No, sir.

Q. Were you masquerading as Peter Cohn? A. No, sir.

Objected to by Mr. Ward.

Objection overruled.

Defendants except. Exception allowed and signed and sealed accordingly.

JOS. A. DELANEY,
Judge.

Q. You went in there as Peter Cohn? A. No, sir.

Q. You interviewed this man as Peter Cohn? A. No, sir.

Q. Was there anyone else's name on that card but his? A. There might have been the New York attorney's name.

Q. Besides yours and the New York attorney? A. My name wasn't on it.

Q. I just asked you whose name was on it? A. Peter Cohn's and the New York attorney.

Q. There was no name on it besides Mr. Cohn's and the New York attorney? A. No, sir.

Q. To whom did you give the card? A. To the keeper of the jail on Fifty-third Street.

Q. You went in there masquerading under another man's name?

Mr. Ward: I object to it as improper, as something not correct.

Objection overruled.

Defendants except. Exception allowed and signed and sealed accordingly.

JOS. A. DELANEY,
Judge.

Q. Didn't you? A. No, sir.

Q. Did you feel you had a right to take that card from the New York attorney with Peter Cohn's name on it and did you feel you had a right to go into this prison and interview a person by handing in a card

bearing another man's name? A. I didn't hand in a card bearing another man's name.

Q. What did you do with the card?

Mr. Ward: I object to it on the ground that it is not proper cross-examination.

Objection overruled.

Defendants except. Exception allowed and signed and sealed accordingly.

JOS. A. DELANEY,
Judge.

Q. What did you do with the card? A. Handed it to the keeper.

Q. Your name was not on it? A. No, sir.

Q. Did you tell the keeper who you were? A. Yes, sir.

Q. What did you tell him? A. I said I am from Peter Cohn's office in Paterson and I would like to see Solly Karp and I have an order from the court house.

Q. Did you represent yourself as an attorney? A. No, sir.

Q. Did you tell them you were Karp's attorney from Paterson? A. No, sir.

Q. Why didn't you tell the New York attorney to put Abe Jaffe on the card?

Objected to as not proper cross-examination.
Objection sustained.

Q. You are a student at law? A. Yes, sir.

Q. How long have you been a student? A. Two and a half years.

Q. You are nearly finished? A. Yes, sir.

Q. What did you tell Karp when you got in to see him? A. Yes, sir.

Q. What did you tell him? A. I told him I worked for Peter Cohn and I came down to talk to him.

Q. You didn't tell the keeper you worked for Peter Cohn? A. I did.

Q. Where was Karp? A. He was upstairs.

Q. In a cell? A. I can't tell you if he was in a cell.

Q. You say you felt a lump on his head? A. Yes, when he came downstairs.

Q. Who brought him down? A. He came down himself.

Q. Were any officers present? A. Yes, sir, there were officers in view.

Q. How many? A. Four keepers.

Q. In the room where you were? A. Yes, sir.

Q. What time was it? A. This was at one o'clock.

Q. In the afternoon? A. Yes, sir.

Q. On what date? A. March the seventeenth.

Q. Where was the lump on his head? A. Right at the back.

Q. Are you sure it was on the back or on the side? A. Right on the back.

Q. Where was the swelling on the face? A. All his face was puffed up.

Q. Were you paid for this trip? A. No, sir.

Q. Do you receive a salary from Mr. Cohn? A. Yes, sir, at present I do but not at that time.

Q. How soon after you made this visit did you start to receive a salary?

Objected to by Mr. Ward.
Objection sustained.

DEFENDANTS REST.

JOHN AYRES, sworn for the State.

Direct-examination by Mr. Stafford:

Q. What is your occupation? A. Sergeant of the State Railway Police.

Q. How long have you been employed there? A. About eight years.

Q. Do you know where you were on March the sixth, in the evening, nineteen hundred and twenty-five? A. Yes, sir.

Q. Where were you? A. At the Ridgewood station.

Q. At about what time? A. Nine forty-five.

Q. How long did you stay there? A. Thirty minutes.

Q. Did you ever see this man Unger before? A. Yes, sir.

Q. Did you see him on March the sixth? A. In the Ridgewood station.

Q. How long was he there? A. I was only there a half an hour myself, and he was there during that time.

Q. Was anybody there besides you and he? A. Yes, sir, one of my men.

Q. What is his name? A. Hight.

Q. Is he here today? A. Yes, sir.

Q. Mr. Hight, stand up, is that the man? A. Yes, sir.

Q. You were there for half an hour? A. Yes, sir.

Q. Did you go back? A. No, I got there on the nine forty-five and left on the ten twenty-one.

Q. Did you see him again after that? A. No, sir.

CROSS-EXAMINATION by Mr. Stein:

Q. March the sixth, what year? A. Nineteen hundred and twenty-five.

Q. At what station? A. The Ridgewood passenger station of the Erie Railroad.

Q. Was there anything particular about his being there? A. My business is to keep undesirables out of the station.

Q. What was there peculiar about him? A. We have to watch men to keep them from hanging out in there.

Q. Who else was with him? A. He was all alone.

Q. What did you say to him? A. I didn't say anything to him.

Q. You were a police official? A. Yes, sir, and I told my man, I asked him what he was doing.

Q. Couldn't you see what he was doing? A. He was doing nothing.

Q. But he looked suspicious to you? A. Yes, sir.

Q. But you didn't go over to him? A. No.

Q. When did you get a subpoena in this case? A. About four days ago.

Q. Where is it? A. In my pocket.

Q. May I see it? A. Certainly.

Q. You got it four days ago. Now you are not going to tell me you got it two days, are you? A. I just can't remember when I got it, I think it is about four days ago.

Q. Who gave it to you? A. It was sent to our office in Jersey City.

Q. How did you get it? A. Through our office.

Q. When did you get it? A. Yesterday morning.

Q. That is four days ago? A. I didn't mean I got it four days, it was there.

Q. That is the best method you have for things that you picked it up yesterday? A. I had no particular interest in it when I got it.

Q. When did you get it? A. Yesterday morning.

Q. In the mail? A. No, not in the mail.

Q. How did you get it? A. Through one of our offices.

Q. Who? A. Lieutenant Campbell.

Q. Is he here? A. Yes, sir.

Q. The man that gave you the subpoena yesterday? A. Yes, sir.

Q. You understand English very well? A. Yes, sir.

Q. You understand English as I speak it? A. Yes, sir.

Q. You received this subpoena yesterday morning from whom? A. Yes.

Q. From who? A. Mr. Campbell. I didn't get it direct from him, I got it from the state detective there.

Q. Who gave you this paper here, Mr. Drew? A. I said it came through our office.

Q. You said you got it from Mr. Campbell? A. Yes, sir, he was the one who presented it to me.

Q. You are not going to tell me Mr. Campbell is somebody else in a few minutes? A. No.

Q. Did Mr. Drew give you this subpoena? A. He sent it to our office.

Q. Did he hand it to you in person? A. No.

Q. What time did you get the subpoena yesterday? A. Yesterday morning.

Q. Did you come here yesterday? A. Yes, sir.

Q. Where were you yesterday? A. Here.

Q. In court? A. Yes, sir.

Q. All day? A. Yes, sir.

Q. And today? A. Yes, sir.

Q. There is no question about that? A. No, sir.

Q. Where did you see Unger outside of this day in Ridgewood? A. I never seen him.

Q. You saw him yesterday? A. Yes, sir.

Q. Who pointed him out yesterday? A. Nobody.

Q. Whom did you tell this is the same man to? A. Nobody.

Q. You realize this is no petty crime, don't you? A. Yes, sir.

Q. You understood when you answered that question you should answer the truth? A. Yes, sir.

Q. Then I will ask you this once more: Whom did you tell since the day you saw Unger in the Ridgewood station that you saw the man in Ridgewood? A. Who did I tell?

Q. Yes. A. I didn't tell anybody.

Q. How was Unger dressed that day? A. He had on a dark suit and a brown overcoat on the radiator waiting for it to dry and a slouch hat.

Q. Have you ever seen anybody else in the Ridgewood station with the same kind of a coat? A. No, sir.

Q. Have you ever seen anybody in your lifetime with the same kind of a coat on? A. I don't know as I have.

Q. What was peculiar about that? A. He was hanging out in the station and getting dry.

Q. Was it raining? A. It was.

Q. On Friday? A. I believe it was misty.

Q. At what time of night? A. Nine forty-five.

Q. What happened to Unger after you saw him? A. I don't know.

Q. What is there about him that makes you remember there is a man in the Ridgewood station on

March seventh, nineteen hundred and twenty-five, a man you have spoken to nobody about since? A. I learned from my man the next day that that was the man implicated in the holdup.

Q. I suppose he told you the name? A. He told me his name, yes, sir.

Q. He did? A. My man that works there.

Q. On the sixth of March did this man tell you his name? A. No, on the seventh.

Q. Who told him? A. He did.

Q. He told you the man with the name of Unger was in the Ridgewood station on the sixth? A. The man I saw at the station that night, his name was Unger.

Q. Who told you that? A. The man that worked at that station.

Q. The man who works for you at the station had no peculiar psychic powers? A. No.

Q. He was not a mind reader, is he? A. I don't know.

Q. Is he? A. I don't know.

Q. Did you read about this holdup? A. Yes, sir.

Q. When? A. The next day.

Q. Did you read the name of Unger? A. Yes, sir.

Q. You knew that was Unger? A. I did not know until my man told me the name on his license was Unger.

Q. His license card for what? A. Chauffeur's license.

Q. Did he have an automobile there? A. No, sir.

Q. He was in Ridgewood without an automobile? A. I guess he was.

Q. Did you ask him for the license card? A. I did not.

Q. When you found out the next day from your

man stationed in Ridgewood that a man by the name of Unger was arrested in Paterson, and that was the name of the man in Ridgewood the night before, what did you do? A. Took him down before Captain Mosley.

Q. Took who? A. My man.

Q. To tell him what? A. That that was the man.

Q. What you said a moment ago in response to a question presented to you in very good English and you answer in similar English about speaking to anybody about this man being there until today and you said no. That is not so? A. I didn't mention any name.

Q. What did you say to Mosley? A. I told him we could identify the man known as Unger.

Q. Isn't that mentioning his name? A. No, I don't think so.

Q. When did you find the man's name? A. The next afternoon.

Q. When? A. The seventh of March.

Q. The day of the holdup? A. Yes, sir.

Q. You went down to Captain Mosley? A. After that day, it was on the eighth.

Q. On Sunday? A. No, on Monday.

Q. Let's see if we can get one question. When did you and your man go there, the seventh, eighth or ninth? A. The ninth.

Q. You are not going to tell us the eighth later on? A. No.

Q. You had read this in the paper on the seventh? A. Yes.

Q. What paper? A. The "Guardian."

Q. You did not go down the same night to see Mosley? Do you know when you read the paper that this was the man? A. Yes, sir.

Q. You didn't go down on the seventh? A. No.

Q. Nor the eighth? A. No.

Q. On the ninth you decided to go down? A. Yes, sir.

Q. When did you go down, morning, afternoon or night? A. In the evening.

Q. You spoke to Captain Mosley about a man by the name of Unger? A. Yes, sir.

Q. Is that speaking about a man by the name of Unger? A. What?

Q. The conversation you had with Mosley in the police station on the ninth of March, is that speaking about Unger since the sixth of March? A. Yes, sir.

Q. You told me from the time you saw this man in Ridgewood until today you had spoken to nobody about Unger? A. No, I did say something.

Q. You were wrong? A. With the exception of speaking to my man, I got the information from him.

Q. In what sense were you mistaken when you said since March sixth you have not spoken about him? A. You asked me if I knew his name on the sixth, didn't you?

Q. I did not, I asked you whether since March the sixth and up to the present time you had spoken to anybody about Unger? A. I misunderstood your question.

Q. You mean you don't understand what I am talking about? A. Yes, sir.

Q. Is this other man here now? A. Yes, sir.

Q. What was this license for? A. I don't know, I didn't say I saw it.

Q. Did your man see it? A. Yes, sir.

Q. How did you know? A. He told me so.

Q. Is this man a subordinate or superior? A. Subordinate.

Q. What is his official name? A. A patrolman.

Q. What are you? A. A sergeant.

Q. You felt it was your duty to assign your subordinate to ask a man what he was doing around the station? A. Yes, sir, he wasn't doing anything.

Q. What did you send him for? A. That was his station, Ridgewood.

Q. Well, you wouldn't inquire about a man being in the station? A. I asked him who the man was. The man wasn't doing anything. He said the man just dropped in here to get dry.

Q. What else did you say? A. That is all.

Q. You were standing there? A. Yes, but I left very shortly.

Q. Did you leave before or after he told you what he was doing there? A. I remained there until the next train out.

Q. You don't know what your associate said or did there with Unger? A. Yes, sir, I know he put the man out of the station.

Q. Did you see Unger show him the card? A. No, I wasn't present when he showed him the card.

Q. What did you see when you were present? A. When I went into the smoking room he was sitting in there with his coat on the radiator and I went out and asked my man what that man was doing in there and he said he just dropped in to get dry.

Q. And you went ahead? A. I made a telephone call and left on the ten twenty-one.

Q. To where? A. Newark, New Jersey.

Q. You were staying in Newark? A. I was not but that was where I had to go to next.

Q. How long did you stay in Newark? A. I just can't remember.

Q. How long? A. I might have stayed there half an hour or an hour.

Q. Where did you go to Newark? A. I went on the Erie.

Q. What was your business in Newark? A. That is my business.

Q. Well, my business is to find out your business. What was your business in Newark that necessitated going in on the ten twenty-one? A. I have sixteen men to see each night.

Q. Did you see them all that night? A. No, I did not.

Q. Did you see the man in Newark? A. One.

Q. Who was he? A. His name?

Q. Yes. A. Morey.

Q. What time does the ten twenty-one from Ridgewood get into Newark? A. I should say eleven six.

Q. You have often used it? A. Yes, sir.

Q. The ten twenty-one from Ridgewood gets into Newark eleven six? A. Something like that.

Q. Isn't it nearer eleven thirteen? A. It might be.

Q. How long did you stay there? A. Half an hour.

Q. How did you go back to Paterson? A. I didn't come back.

Q. Where did you go? A. South Newark.

Q. Did you stay there for the night? A. No, sir.

Q. How did you come from South Newark to Paterson? A. I went to Rutherford.

Q. How did you go from South Newark to Rutherford? A. In a machine.

Q. What time did you get to Rutherford? A. Sometime early in the morning.

Q. What time? A. Two o'clock.

Q. Then where did you go? A. Passaic.

Q. Then where did you go? A. Paterson.

Q. What time did you get to Paterson? A. Around five o'clock, five eleven.

Q. Where did you go? A. I went home about five thirty.

Q. Where is your home? A. Clifton, New Jersey.

Q. And you went to sleep? A. Yes, sir.

Q. Did you see your man the next day? A. Yes, sir.

Q. Where? A. At Ridgewood the next night.

Q. Saturday night or Sunday night? A. Saturday night.

Q. The night on which you came home and went to sleep? A. Yes, sir.

Q. Where did you see him? A. The Ridgewood station.

Q. When did you see the "Press-Guardian"? A. In the afternoon as soon as it came out.

Q. You were sleeping? A. I usually get up around three o'clock.

Q. What time did you see the "Press-Guardian"? A. After that.

Q. Did you read in the "Press-Guardian" on Saturday about Unger or was it on Sunday? A. On Sunday, I think.

Q. Will you tell me anything that you are positive about? A. I saw it, I am positive of that.

Q. In the "Guardian" or "Sunday Chronicle"? A. The "Press-Guardian."

Q. There is no question about that? A. No.

Q. What did you read? A. Something about a stick-up of a pay roll of the Manhattan Shirt Co.

Q. Where did you get this "Press-Guardian"? A. At the railroad station, the Erie station.

Q. In Paterson? A. Yes, sir.

Q. Let's understand this next question so there will be no doubt about it. You saw your companion in Ridgewood on Saturday night? A. Yes, sir.

Q. You saw him for the first time in Ridgewood since Friday night? A. Yes, sir.

Q. You left your man and Unger in the railroad station in Ridgewood and you went about your business? A. Yes, sir.

Q. When you left the Ridgewood station on the ten twenty-one on Friday night you didn't know who this man was? A. No.

Q. There is no doubt about that? A. No.

Q. When you read the "Press-Guardian" at four-thirty on Saturday afternoon that a man by the name of Unger was the man arrested by the Paterson police for the holdup— A. I did not.

Q. What did you read? A. I read about the hold-up, I didn't know Unger was here.

Q. You saw his name in the article? A. Yes, sir.

Q. You didn't know who that was? A. I didn't know that was the man who was at the Ridgewood station that night until later that night when I learned it from my man.

Q. When did you find out about this motor vehicle car? A. Yes, sir.

Q. When did you find out? A. Saturday night.

Q. Your man told you everything about it? A. Yes, sir, he says, "Do you remember the fellow you asked about last night," and I said, "Yes." He says, "That fellow is the one in the highway robbery in Paterson."

Q. You hadn't seen him yet on Saturday night, that is, Unger? A. I didn't see him on Saturday night.

Q. I am asking you whether you saw him on Saturday night? A. No.

Q. Do you know whether your companion had seen him? A. No.

Q. He merely said about this being the man? A.

Yes, sir, he had seen the paper and had recognized the name in the paper as the same one as being on the license card he had seen the night before.

Q. What else did he tell you? A. That he had sold him a flash light.

Q. Let me ask you this again. From the time you saw Unger on Friday night in the Ridgewood station until yesterday you didn't see him, did you? A. No.

Q. Did you see him in the lockup on Monday when you went down to see Mosley? A. No, sir.

Q. You knew he was there? A. No, sir.

Q. Didn't Mosley tell you that Unger was in the police station? A. He did not.

Q. Did Mosley ask you to go in and identify him? A. He did not.

Q. Have you been taken by Mosley or by anybody else up to the county jail to see Unger since the sixth or seventh? A. Absolutely no.

Q. Yet you tell us you told Captain Mosley on Monday after this holdup that this man Unger was the man you saw in Ridgewood? A. Yes, sir.

Q. You didn't go in to see him in the lockup in Paterson? A. No.

Q. Or at the county jail? A. No, but I saw his picture.

RE-DIRECT EXAMINATION by Mr. Stafford:

Q. You saw his picture where? A. From Captain Mosley.

Q. Is that when you identified him? A. Yes, sir.

JOHN HIGHT sworn for the State.

Direct-examination by Mr. Stafford:

Q. You are the gentleman referred to by Mr. Ayres? A. Yes, sir.

Q. Were you on duty at the Ridgewood station on March sixth? A. Yes, sir.

Q. Did you ever see the defendant, Unger, before? A. Yes, sir.

Q. Where did you see him? A. At the Ridgewood station.

Q. At what time? A. About nine-fifteen.

Q. Where was he? A. In the smoking room.

Q. How was he dressed? A. He had a dark suit on and a brown overcoat and a brown slouch hat.

Q. Where was his overcoat? A. On the radiator.

Q. Did you talk to him? A. I talked to him afterward after I seen he wasn't making any attempt to leave the station, then I asked him what he was hanging around for, and he says he was to wait to meet two of his friends there between four and five o'clock on Saturday. He said they were in the trucking business and they were to put on a load and he was to meet them there. He said that they were somewhere but anyway they were to meet him at four or five o'clock.

Q. What else? A. I told him he couldn't stay there, that he would have to go out and he said he had no money to get out, and I told him he would have to get out of the station, then he said to me, "What will you give me for a flash light?" I said, "I don't want it, I got one." He said, "Give me the price to get to Paterson and you can have it," and I asked him, "How much do you want for it," and then he sold it to me. Then he got on the jitney bus and asked the bus

driver where he would get out to go to some place, and the driver told him something about the ice house, and he says, "That is near the bridge, isn't it," and the driver said, "Yes," and he said, "That is all right, I will get off there."

Q. Did he go on the bus? A. He did.

Q. I show you a ticket and ask you if you ever saw that before? A. This is the card he showed me up there that night.

Q. Where did he take it from? A. His inside coat pocket.

Q. How did he happen to show it to you? A. He said he was out looking for a job as a chauffeur, and wanted to get in with some automobile dealer.

Q. He showed this to you? A. Yes, sir.

Q. He had this with him? A. Yes, sir.

Q. And showed it to you? A. Yes, sir.

Mr. Stafford: I offer this in evidence.

Objected to by Mr. Stein.

Objection overruled.

License offered in evidence and admitted and marked Exhibit S3, for the State.

CROSS-EXAMINATION by Mr. Stein:

Q. This is not all a pipe dream? A. No, sir.

Q. And you got a subpoena too? A. Yes, sir.

Q. Where is it? A. In my pocket.

Q. Let me have it? A. Yes, sir.

Q. Where did you receive this? A. From Sergeant Ayres at Ridgewood.

Q. From Sergeant Ayres? A. Yes, sir, it was sent out from the Jersey City office to Sergeant Ayres, the man who was just up here.

Q. Let's get this straight. Did you get your sub-

poena from Ayres? A. I got my subpoena from Ayres.

Q. Where? A. At the Ridgewood station.

Q. When? A. The night before last.

Q. When? A. Tuesday night.

Q. Did it come in an envelope? A. Yes, sir.

Q. To Jersey City? A. Yes, sir.

Q. The night before last is the fifth? A. The night I got the subpoena is the fifth.

Q. And today is the seventh? A. Yes, sir.

Q. Yesterday was the sixth? A. Yes, sir.

Q. The night before last was the fifth? A. Yes, sir.

Q. Did you get it through the mail? A. No, sir, through Sergeant Ayres.

Q. Did you hear Sergeant Ayres say he got his subpoena from you?

Mr. Stafford: I object to it. Sergeant Ayres said no such thing.

Objection sustained.

Q. Did you get a subpoena from Ayres or did Ayres get his from you? A. I got my subpoena from Ayres.

Q. You didn't give Ayres his subpoena in Jersey City? A. I did not, no, sir.

Q. Was they both received at the same time? A. I don't know.

Mr. Stein: I ask that these subpoenas be marked for identification.

Subpoena of John Hight marked Exhibit D3 for identification for the defense.

Subpoena of John Ayres marked Exhibit D4 for identification for the defense.

Q. You say this license card marked S3 you saw on the sixth of March? A. Yes, sir.

Q. He took it out and showed it to you? A. Yes, sir, I asked him, "What are you doing," and he said, "Looking for a job as a chauffeur."

Q. I ask you whether he showed you that card? A. Yes, sir.

Q. You can read English? A. Yes, sir.

Q. Your duty as an inspector, or whatever it was, up to the Erie Ridgewood station, your business is to keep away people who have no business there? A. Yes, sir.

Q. Absolutely? A. Yes, sir.

Q. If you looked at the man's license card and found it wasn't for nineteen twenty-five, what would you tell him? A. I saw it was a nineteen twenty-four license.

Q. This gave you no information as to whether he was a chauffeur or not? A. No, sir.

Q. Did you ask him where his nineteen twenty-five card was? A. I did not. He simply took that out and showed it to me.

Q. Do you know where that came from now? A. Yes, sir, from New York.

Q. Now? A. I don't know where it came from just now.

Q. How did it get into court today? A. I don't know. I can't answer that.

Q. You will notice that on Exhibit D3 and Exhibit D4 the names of the witnesses and addresses are in different handwriting, one is typewritten, and one is written by hand? A. Yes, sir.

Q. When did you see Unger outside of the sixth of March? A. I didn't see him any time until yesterday.

Q. You were down to the police headquarters with Mr. Ayres? A. Yes, sir.

Q. On what day? A. March the ninth.

Q. Are you sure it wasn't the eighth? A. No, sir.

Q. You saw Captain Mosley? A. Yes, sir.

Q. You told Mosley that a man by the name of Unger was in Ridgewood? A. I told him he was in Ridgewood, I couldn't swear he was implicated in the robbery because the robbery wasn't until the next day.

Q. Did you know the Unger you saw in Ridgewood on the sixth of March was the Unger who was arrested? A. I knew it just as soon as I seen the license.

Q. When did you see the license after the sixth of March? A. In Captain Mosley's office.

Q. You know you never saw the defendant in Captain Mosley's office on the ninth of March? A. He had his picture there.

Q. Did he have his license there? A. He had a picture there.

Q. Don't you know this was recovered in the City of New York? A. I don't know.

Q. You didn't go to see Unger in the lockup in police headquarters on the ninth of March or any other day? A. No, sir.

Q. Nor did you go to the county jail to identify him? A. No, sir, I indentified him by this picture.

Q. What picture? A. The picture Captain Mosley had taken of him in the city on the day that he was picked up.

Q. You didn't know that was the same man in the lockup? A. That was the same man.

Q. You could easily have seen one of the men in the lockup in Paterson on March the ninth, was the man that you saw on March the sixth? A. If I had seen him.

Q. Couldn't you have seen him? A. I never did see him.

Q. Were you up in Captain Mosley's office upstairs? A. Yes, sir.

Q. You mean to tell this jury Mosley didn't bring this man up to you? A. No, sir.

Q. Did you give a statement to Mosley at the time? A. No, sir.

Q. Was there any written statement taken from you? A. No, they just took my name, that is all.

Q. Mr. Hight, once more I ask you if this is the card you say Unger showed to you at Ridgewood? A. That is the card Unger showed me at Ridgewood.

Q. There is no doubt about that? A. No, sir.

Q. Referring to S3. A. Referring to S3.

Q. That is the card Unger showed you in Ridgewood on March sixth? A. Yes, sir.

JOHN AYRES recalled for the State.

Cross-examination by Mr. Stein:

Q. Did I understand you to say that you received this subpoena? A. I didn't say this subpoena. I said my subpoena.

Q. Where did you receive your subpoena? A. At Jersey City.

Q. You gave Mr. Hight his subpoena? A. Yes, sir. These subpoenas are received at Jersey City at our office and I deliver them.

Q. Did you get your subpoena through the mail? A. Yes, sir, or no, sir.

Q. Who gave you your subpoena? A. He left them at the Jersey City office for me.

Q. Did he leave Hight's there for you too? A. Yes, sir.

Q. Do you know if they both came the same day? A. No.

Q. Do you know they are dated different dates? A. I don't know.

Q. Look at them and tell us? A. Yes, sir, they are dated different.

Q. You took Hight's subpoena and brought it to him? A. Yes, sir.

Q. They were given to you by Campbell? A. Left at the office.

Q. Is Campbell here? A. Yes, sir.

JOHN GRIFFIN sworn for the State.

Direct-examination by Mr. Stafford:

Q. You are an officer, a member of the New York Police Department that has been identified by Mr. Unger as one of the officers that arrested him on December twenty-eighth? A. Yes, sir.

Q. You and Officer Moffet? A. Yes, sir.

Q. Will you just describe the place where these defendants were when you arrested them? A. It was a restaurant located at 231 East 98 Street. As you enter the restaurant consists of a front dining room with some tables and a number of people were sitting at them and then the next room was the kitchen and in the rear of the kitchen was a little anteroom.

Mr. Ward: I object to this on the ground that it is not rebuttal.

The Court: I shall admit it.

Defendants except. Exception allowed and signed and sealed accordingly.

JOS. A. DELANEY,
Judge.

Q. When you went into the restaurant how many people were in the restaurant proper? A. I should say about fifteen.

Q. How many tables were there, about? A. About twelve, I should think.

Q. When you left the restaurant, what room did you go through? A. The kitchen.

Q. When you left the kitchen where did you go? A. We made an investigation first in the restaurant of all the stuff on the tables.

Mr. Ward: I object to that as irrelevant.

Q. Where did you go? A. Through the kitchen to this rear end room.

Q. Did you go into the rear end room? A. The door was closed.

Q. How did you get in?

Mr. Ward: I object to it as not proper rebuttal.

Objection overruled.

Defendants except. Exception allowed and signed and sealed accordingly.

JOS. A. DELANEY,
Judge.

A. I tried the door and felt something was holding it.

Mr. Ward: I ask that that be stricken out.

The Court: Strike it out.

A. On pushing the door I found one of the men whom I arrested sitting against the door and I had to push with such force that he went down and there were four men sitting at the table and about four masks on the table and one of the men who was sitting

at the table was sewing cloth around a black jack. I then placed the five men under arrest.

Q. Do you know who the five men were? A. Yes, sir.

Q. Will you stand up, Mr. Unger. Did you see him? A. Yes, sir.

Q. Was he one of the men that you arrested? A. Yes, sir.

Q. Mr. Karp, stand up. Is he one of the men you arrested? A. Yes, sir.

Q. Where did you bring them? A. To the East One hundred and fourth Street police station.

Q. Were any of them convicted? A. One.

Q. What one was that? A. Gerskowitz.

Q. Have you got the masks with you? A. Yes, sir.

Q. May I see them please?

Mr. Ward: I object to the display of these masks.

Objection overruled.

Q. Are these the four masks you took from the table on December twenty-eighth? A. Yes, sir.

Mr. Stafford: I offer them in evidence.

Mr. Ward: I object to them on the ground that it is irrelevant, immaterial, and not proper rebuttal.

Objection overruled.

Defendants except. Exception allowed and signed and sealed accordingly.

JOS. A. DELANEY,
Judge.

Q. Where were these men? A. Sitting at a table in a chair.

Q. Where was Karp? A. Sitting at the table in a chair.

CROSS-EXAMINATION by Mr. Ward:

Q. Karp was discharged the next day? A. Yes, sir.

Mr. Stein: And so was Unger?

The Witness: Yes, sir.

Mr. Ward: At the time that Karp was discharged these masks and blackjack were displayed in court?

The Witness: Yes, sir.

RE-DIRECT-EXAMINATION by Mr. Stafford:

Q. And you have retained them in your possession ever since? A. Yes, sir.

Masks admitted in evidence and marked Exhibit S4 for the State.

THOMAS J. MOFFET sworn for the State.

Direct-examination by Mr. Stafford:

Q. You are one of the officers mentioned by Unger? A. Yes, sir.

Q. You were there at this restaurant? A. Yes, sir.

Q. Will you describe the restaurant and building as you went through? A. We went inside the door and saw the place there was conducted as a restaurant. There is about ten or twelve tables in there and there were about ten or fifteen people at the tables and then we went into the kitchen, a small kitchen, and behind the kitchen we found a small room.

Q. How did you get into the other room?

Mr. Ward: I object to it on the ground that it is irrelevant, immaterial and is not proper rebuttal. I am objecting for both defendants.

Objection overruled.

Defendants except. Exception allowed and signed and sealed accordingly.

JOS. A. DELANEY,
Judge.

A. We had to push the door open and a man standing in front of the door had to, we had to get him out of the way first.

Q. What did you see? A. Five men seated around a table and, or rather one man was standing and the four at the table each had a mask in front of them on the table.

Q. Was there any dishes, glasses, or cups and saucers on the table? A. No, sir, only a blackjack.

Q. Did you see Mr. Unger? A. Yes, sir.

Q. Where was he? A. Sitting at the table.

Q. Did you see Mr. Karp? A. Yes, sir.

Q. Where was he? A. Sitting at the table.

JOSEPH MOSLEY, sworn for the State.

Direct-examination by Mr. Stafford:

Q. Did you question Mr. Karp when he was brought back to Paterson on the twenty-seventh day of March? A. I did, yes, sir.

Mr. Ward: I object to that. It was all gone into on direct-examination.

The Court: I take it this is to contradict the statement made by the defense.

Mr. Ward: He was asked the conversation he had with Karp and he described the conversation and told us what was said and the different stories Karp told. Therefore we object to this as being improper to put this witness back on the stand simply to go over the evidence.

Objection overruled.

Defendants except. Exception allowed and signed and sealed accordingly.

JOS. A. DELANEY,
Judge.

A. I have never testified to that at all, Mr. Ward.

Q. Did he see a picture of Unger? A. He did.

Q. Did he at that time deny that he had ever seen Unger or knew him? A. He did.

Q. Did you question him about his actions on March the seventh in the morning? A. Yes, sir.

Objected to by Mr. Ward.

Objection overruled.

Defendants except. Exception allowed and signed and sealed accordingly.

JOS. A. DELANEY,
Judge.

Q. Did he at that time tell you he slept all the morning of the seventh until twelve-thirty o'clock? A. He did.

Mr. Ward: I object to that question on the ground that it is not proper rebuttal and is part of the State's main case.

Objection overruled.

Defendants except. Exception allowed and signed and sealed accordingly.

JOS. A. DELANEY,
Judge.

Q. And then went out and stayed around the block where he lived all afternoon? A. He did.

Q. And he got a shift and that is all he did during the afternoon? A. Yes, sir.

Q. And then at six o'clock he ate and went to the corner and stayed there until ten P. M.? A. Yes, sir.

Q. Did he about an hour later change this story? A. Yes, sir.

Q. Did he then say he got out of bed at nine A. M. and went to the corner of East 103rd Street and Lexington Avenue? A. Yes, sir.

Q. And jockeyed a taxi until eleven-thirty? A. Yes, sir.

Q. And also jockeyed a taxi from four-thirty until six-thirty? A. He did.

Q. And from eight P. M. until eleven-thirty P. M.? A. He did.

Q. Then he went home? A. He did.

CROSS-EXAMINED by Mr. Ward:

Q. You were on the stand before and told about your conversation with Karp, didn't you? A. I told the same story I am telling now.

Q. You told that before? A. I told about it before when I was asked about him being brought up and identifying a picture.

Q. You were on the stand and testified before as you have testified now? A. No, I didn't as I do now.

Q. You mean your recollection is pretty bad? A. No, my recollection is not bad, I was not asked.

Q. Don't you remember what you testified to? A. Sure.

Q. Didn't you testify before on cross-examination that Karp had told two different stories? A. Yes, sir, he told one the first time and another one at three o'clock when he was brought up.

Q. Didn't you say that when I asked you if he did not say he had always been a working boy, didn't you say no he had told two different stories? A. Yes, sir.

Q. You police have been all het up about this case? A. No, I have not been het up.

Q. You are very anxious to obtain a conviction? A. I am only anxious to do my duty.

Q. You are anxious to obtain a conviction for the commission of this crime? A. I am and I am not. It is immaterial to me. It is up to the jury. I am here to present my case to the Prosecutor and let him put it up to the jury.

Mr. Ward: I ask that the answer be stricken out.

The Court: Strike it out.

Q. I ask you, Captain Mosley, to answer my question without delivering a speech. Are you or not anxious to obtain a conviction? A. If the evidence warrants it, yes.

Q. Are you or not anxious to obtain a conviction? A. If the evidence warrants it, yes, Mr. Ward.

RE-DIRECT EXAMINATION by Mr. Stafford:

Q. One question I forgot to ask the captain. On the seventh of March when Mr. Unger was arrested did he on that occasion tell you he had been home all night? A. He did.

Q. On Sixty-seventh Street? A. He did.

Q. When you asked him was that true because you were going to send a man over to New York and didn't want to be put to a lot of trouble what did he say? A. He said he was home and I also asked him was he arrested.

Q. When Mr. Murphy came back did he then admit he was not home and say he stayed at the Holland Baths? A. Yes, sir.

Q. When you asked him if he was arrested did he deny it or not? A. Yes, sir.

Q. When Murphy came back from New York did he then admit it? A. Yes, sir.

Objected to by Mr. Stein.

Objection overruled.

Defendants except. Exception allowed and signed and sealed accordingly.

JOS. A. DELANEY,
Judge.

Q. Didn't you then ask him if he had taken a bath? A. I did.

Q. Did he say yes he took a shower bath? A. Yes, sir.

Q. Did you say to him, "How is it your feet were dirty?" What was the condition of his feet?

Mr. Stein: I object to it on the ground that it is improper rebuttal and irrelevant.

Objection overruled.

Defendants except. Exception allowed and signed and sealed accordingly.

JOS. A. DELANEY,
Judge.

A. His feet were very dirty and punky.

The Court: If there is any further demonstration from the persons sitting in the court room I shall have the court room cleared. We are not staging a farce. It is a serious matter to these defendants and a serious matter to the public and the State. I will clear the court room if there is any further demonstration.

Mr. Ward: May I ask your Honor to admonish this witness to answer the questions and no more.

The Court: The witness will answer the questions and no more, Mr. Ward.

CROSS-EXAMINATION by Mr. Stein:

Q. Do you know Ayres and Hight of the railway squadron? A. I do.

Mr. Stafford: I object to that, that is not proper cross-examination.

Mr. Stein: We will make this our witness to make this proper cross-examination with the consent of your Honor.

Q. You have given no testimony about this card? A. No, sir.

Q. Did you ever see it? A. Not to my knowledge.

Q. Not until today? A. No, sir.

Q. You are the captain of the detectives of Paterson? A. Yes, sir.

Q. You had full charge of the investigation of the holdup of the Manhattan Shirt Company? A. Yes, sir.

Q. The charge on which these defendants are here today? A. Yes, sir.

Q. You know nothing about this card? A. I never saw it to my knowledge.

Q. Was Mr. John Ayres in your office to see you? A. Yes, sir.

Q. When? A. Monday, March the 9th, about ten minutes to five.

Q. Did he tell you about a man by the name of Unger being in Ridgewood? A. Yes, sir.

Q. You had a man by the name of Unger in the lockup? A. Yes, sir.

Q. Downstairs? A. Yes, sir.

Q. Or upstairs? A. Downstairs.

Q. Did you take Detective Ayres down to see Unger? A. No.

Q. Did you take Detective Hight down to see Unger? A. No.

Q. You have known since March the 9th, the date these two Erie Railroad detectives were in your office, that they were to identify Unger, the defendant here, as the man who was in the Ridgewood station? A. After seeing Hight pick out his picture that that was the man who was in the Ridgewood depot.

Q. He picked out a picture of this defendant? A. Of Unger.

Q. You knew then Hight was to identify Unger as the man who was in the Ridgewood station? A. No.

Q. You didn't take him downstairs to see him in person? A. I did not.

Q. That was your idea of an identification? A. I did not take him downstairs.

Q. Nor have you since taken him to the jail to see him? A. I have not.

JOHN MURPHY, recalled by the State.

Direct-examination by Mr. Stafford:

Q. You were over in New York on the 13th of March? A. I was.

Q. When Mr. Karp, the defendant, was apprehended? A. He was apprehended on the 14th, early in the morning.

Q. Were you in the police station when Detective Walsh had Karp in there? A. I was.

Q. Was Detective Stengle with you? A. Yes, sir.

Q. Did you see Mr. Karp, the defendant, after Mr. Walsh had talked to him? A. I did.

Q. About what time of the day on the fourteenth did you see Mr. Karp? A. I saw him off and on from 3:30 A. M. to 10 A. M.

Q. What happened at 10 A. M.? A. We brought him up to the Magistrate's Court.

Q. What time was he arrested? A. We took him to the station house I suppose about three-thirty.

Q. From three-thirty until ten o'clock the next morning did you notice the condition of his face? A. The same as the way we picked him up.

Q. Were there any marks on it? A. No, sir.

Q. Was it puffed up? A. No, sir.

Q. Was anything said by him about being beaten up? A. No, sir.

Q. Did he complain to you about his physical condition? A. He did not.

CROSS-EXAMINATION by Mr. Ward:

Q. Mr. Cohn called, or when he saw him or met you in New York, complained about the treatment that had been accorded to this man by the New York detective?

Mr. Stafford: I object to it as not proper cross-examination.

Objection sustained.

Defendants except. Exception allowed and signed and sealed accordingly.

JOS. A. DELANEY,
Judge.

Q. You remember when Karp was present, when he was being arraigned, you were present? A. I was.

Q. Do you remember at that time Mr. Cohn complained to you about the way Walsh and Lynch had beaten Karp? A. Mr. Cohn was not present at that time.

Q. I am referring to the next occasion? A. That was a week later.

Q. Didn't Mr. Cohn complain to you at that time about the way Karp had been beaten up by Walsh and Lynch?

Mr. Stafford: I object to it as being immaterial.

Objection sustained.

Defendants except. Exception allowed and signed and sealed accordingly.

JOS. A. DELANEY,
Judge.

Q. Was there any complaint made to you in the presence of Mr. Karp about the fact that he had been beaten up? A. No, there was not.

Q. By Mr. Cohn? A. Not in the presence of Mr. Karp, no.

Q. When Mr. Karp was not present?

Mr. Stafford: I object to the question as being immaterial.

Objection sustained.

Defendants except. Exception allowed and signed and sealed accordingly.

JOS. A. DELANEY,
Judge.

Q. There was a complaint, was there not, made to you that Karp had been beaten up by the New York police?

Mr. Stafford: I object to it as immaterial.

The Court: By whom?

Mr. Ward: By anyone.

Mr. Stafford: I object to it.

Objection sustained.

Defendants except. Exception allowed and signed and sealed accordingly.

JOS. A. DELANEY,
Judge.

ALBERT STENGEL, sworn for the State.

Direct-examination by Mr. Stafford:

Q. Were you present in New York on the fourteenth of March, 1925? A. I was.

Q. When the defendant, Mr. Karp, was in the police station in charge of Officer Walsh? A. I was.

Q. What time did you arrive at the police station with Karp, the defendant? A. About 3:30 A. M.

Q. What time did you leave? A. About 10 A. M.

Q. What happened at 10 A. M.? A. Karp was arraigned in the Magistrate's Court and held over.

Q. From four o'clock until ten o'clock the next morning did you at any time during those hours see any puffed face on Mr. Karp? A. I did not.

Q. Did you see any cuts, marks or bruises on him? A. I did not.

Q. Did he complain to you or anybody in your presence that he had been beaten by Officer Walsh? A. He did not.

CROSS-EXAMINATION by Mr. Ward:

Q. Did Mr. Cohn complain to you and Officer Murphy that Mr. Karp had been beaten up? A. He did not.

Q. Were you present when Mr. Cohn was present in New York at the time of the arraignment of Karp? A. What arraignment do you mean?

Q. I mean the second time? A. I was not.

Q. Was Mr. Murphy there, do you know? A. I believe he went to New York that day.

Q. Do you remember coming home in an automobile with Mr. Karp and Mr. Cohn and Mr. Murphy and yourself? A. I do.

Q. At that time did Mr. Cohn complain to you about the treatment that had been accorded Karp and of the fact that he had been beaten up by the New York police? A. He did not.

CORNELIUS HARTLEY, recalled for the State.

Direct-examination by Mr. Stafford:

Q. On the seventh of March, 1925, I believe you have already testified you apprehended the defendant, Mr. Unger? A. I did.

Q. At that time did he tell you he came to Paterson from New York by train? A. He did at first.

Q. Then changed it to what? A. At police headquarters he said he came over on the Hudson River trolley.

STATE RESTS.

EDWARD R. COOK, sworn for the defense.

Direct-examination by Mr. Stein:

Q. You have not talked to me about this case? A. I have not.

Q. Have you been subpoenaed here? A. By the State.

Q. Have you been called?

Mr. Stafford: That is immaterial and I ask that that be stricken out.

The Court: Strike it out.

Q. Did you make a search of Unger's house in New York? A. I did not.

Q. Do you know who did? A. I believe—

Mr. Stafford: I object to it unless he knows of his own knowledge.

A. I don't know, sir.

Q. Did you see Unger? A. I did.

Q. Where? A. In the police station.

Q. In Paterson? A. Yes, sir.

Q. You came back from New York, you came from New York to see him here? A. I did not, sir.

Q. You came here for what purpose? A. To investigate the Manhattan Shirt Company robbery.

Q. You are a Pinkerton man? A. I am.

Q. Did you have some letters and personal belongings of Unger's when you called on him in Captain Mosley's office? A. I did not.

Q. Did you see him? A. I did not.

Q. Did you have anything with you, did you have anything belonging to Unger? A. Yes, sir.

Q. Did you have anything with you, anything belonging to Unger? A. No, sir.

Q. Did anybody with you have anything belonging to Unger?

Objected to by Mr. Stafford.
Objection sustained.
Defendants except. Exception allowed and signed and sealed accordingly.
JOS. A. DELANEY,
Judge.

Q. Who was there with you? A. I was there alone.

Q. Alone? A. With Captain Mosley and Unger.

Q. Do you recall having seen this card before? A. I don't recall ever having seen it before.

Q. Did you show this card to Unger? A. Not to my knowledge.

Q. Didn't you bring this over from New York along with other effects that you and your colleague stole out of the house?

Objected to by Mr. Stafford.
Objection sustained.

Q. Didn't you get into his house and search his house? A. I did not, sir.

Q. You say positively you did not show this card, Exhibit S3, to Unger in Mosley's office? A. I don't recall ever seeing that card.

Q. Didn't you have a letter from Unger's girl that you showed to him? A. I didn't show Unger any letters.

Q. Did you show him anything? A. No, sir.

Q. Did you show him anything taken from his house? A. I did not, sir.

Q. Did anybody with you show him anything taken from his house? A. I did not—

Objected to by Mr. Stafford.
Objection sustained.

Q. Your colleague just stepped out, didn't he?

Objected to by Mr. Stafford.
Objection sustained.
Defendants except. Exception allowed and signed and sealed accordingly.
JOS. A. DELANEY,
Judge.

Q. Have you a subpoena here too? A. I have, sir.

Q. Did you tell Unger you had letters belonging to him? A. I did not, sir.

Q. Did anybody tell him that in your presence? A. No, sir.

Q. Who was the other Pinkerton man with you on this case in Paterson, the fellow that just ran out?

Objected to by Mr. Stafford.
Objection sustained.

Q. Did you see your colleague just go out of the room? A. I did not.

Q. Who was your associate in this case? A. Mr. Roberts.

Q. Is he in court now? A. No.

Q. Was Mr. Roberts in Mosley's office when you were there? A. When?

Q. Any time? A. He was at one time.

Q. I asked you whether anybody was with you when Unger was there and you said no? A. I didn't say Unger was there, you asked me if Mr. Roberts was.

Q. On any occasion that Unger was in Mosley's office with you were there anybody else there? A. No, sir.

Q. Was Roberts there when you were there? A. No, sir.

Q. Was Roberts there with you? A. Not when Unger was there.

Q. Did Roberts have this card? A. Not to my knowledge.

Q. Did he show you any letters belonging to Unger when he turned them over to Mosley? A. No, sir.

Q. Did you show Unger a letter you had? A. No, sir.

Q. Didn't you read a letter to Unger? A. No, sir.

Q. Did Mosley read a letter to Unger while you were there? A. No, sir.

GEORGE UNGER, recalled for the defense.

Direct-examination by Mr. Stein:

Q. Were you in the Ridgewood station on March 6th? A. I was not.

Q. Did you see John Hight or John Ayres there? A. I have not seen the gentlemen before.

Q. Did you show them your card, Exhibit S3? A. I did not.

Q. Have you seen this card before today? A. I have.

Q. Since you have been in jail, since you have been arrested? A. Yes, sir.

Q. Where did you see it? A. First and only time when shown by Officer Cook when he came in and spoke to me.

Q. Where? A. In the station house.

Q. How long after you were arrested? A. The same day he came over to me in the afternoon and talked to me, in my cell, and he said, "I am a friend of yours and am going to help you out." He said, "I am going to help you out, I am a friend of yours."

Mr. Stafford: I would like to raise this objection. Mr. Cook was called as a witness for the defense and this witness is now attempting to contradict the testimony of Mr. Cook.

The Court: Go ahead.

A. I refused to talk to him at all.

Q. Did he show you this card? A. He did not.

Q. I am asking you when you saw this card before today? A. In the station house.

Q. Who showed it to you? A. Officer Cook.

Q. Where did he say he got it? A. New York.

Q. What else did he have there? A. A letter.

Q. What kind of a letter? A. A letter from my sweetheart, he says he had a letter from my girl and then they both read the letter and there wasn't anything wrong with it.

DEFENSE RESTS.

The Court: Mr. Stein, you may recall Mr. Newman if you desire to interrogate him further in reference to character.

Mr. Stein: As I told you he left on that twelve twenty-seven train noon time.

Mr. Ward sums up for the defendant Karp.
Mr. Stein sums up for the defendant Unger.
Mr. Stafford sums up for the State.
The Court then charged the jury as follows:

Charge to the Jury.

The Court: Members of the jury: You have displayed remarkable attention and patience during the two days that we have been engaged in this trial. The Court will endeavor to be as brief as possible.

These two defendants, George S. Unger, and Solly Karp, with others, have been charged by the State with the commission of the crime of robbery and assault with a pistol.

The Court will not attempt to repeat the circumstances of the incident. You have heard the evidence and you are the sole judges of the question of fact. You are to determine from the evidence the guilt or innocence of these defendants.

The Court will lay down for your guidance certain rules of law applicable to cases of this character which you will apply to the evidence and which will aid you in coming to your conclusion.

The burden of proof is on the defendant.

The law presumes these defendants innocent of the commission of any crime and that presumption continues until the State establishes their guilt beyond a reasonable doubt.

Reasonable doubt is not a mere possible doubt. It is that state of the case, which, after the entire comparison and consideration of all the evidence leaves the minds of the jurors in that condition that they feel an abiding conviction to a moral certainty of the truth of the charge.

You have been listening for some time to the oratory of counsel deeply interested in their respective sides. However, you are not to be swayed or moved by the oratory of counsel, your duty being indicated in the oath that was administered at the beginning of the case:

"To well and truly try this issue and a true verdict render according to the evidence."

I have been requested to charge you specially by counsel for both the defendants, but before reading the requests that have been presented to me, I wish to add further this suggestion:

There are two indictments, as I have indicated against these defendants. You may convict both or either of them on one or more of the indictments.

I will now take up the reading to you of the charges I have been specially requested to charge. One and two the Court declines to charge. I am now reading the requests to charge which were handed to me in behalf of Mr. Unger:

3. If the defendant's defense does not satisfy the jury, nevertheless, that is not sufficient to convict the defendant, but the jury must determine from the whole case, whether or not the State has proven its case beyond all reasonable doubt.

4. The burden of proof never shifts from the State in a criminal trial, but throughout the entire trial, the burden of proof is always upon the State to prove

the defendant's guilt of the crime charged, beyond a reasonable doubt.

5. The jury must acquit if on any reasonable hypothesis it can reconcile the evidence with the defendant's innocence.

6. A presumption of good character always exists as to the defendants and may of itself be sufficient to raise a reasonable doubt as to the defendants' guilt.

7. If after having considered all the other evidence in the case, you then consider the evidence of the good reputation of the defendants, and such evidence of good reputation raises a reasonable doubt in your mind, of the guilt of the defendant, then you must acquit the defendants.

8. In considering the case, the jury should not indulge in any mere suppositions or imaginings as to what may or may not have been done or occurred at the time of the occurrence, but must decide the case upon the evidence of the witnesses and instruction of the Court.

9. If there is in the mind of the jury a reasonable doubt as to the truth or untruth of any testimony on the part of the State, such doubt must be resolved in favor of the defendant by the rejection of such testimony.

10. If there is a reasonable doubt as to the truth or untruth of any testimony on the part of the defendant, such doubt must be resolved in favor of the defendant, by treating such testimony in his favor, as though unquestionably true and correct.

11. The rule that the defendant is presumed to be innocent and that the benefit of a reasonable doubt

must be given to the defendant applies not only to the case as a whole, but such presumption and benefit of doubt should be applied by the jury in considering various portions of the evidence. I so charge you.

I have been asked to charge you especially with reference to the defendant Mr. Karp as follows:

3. It is not necessary that the defendant must satisfy you by a preponderance of the evidence of the fact that he was elsewhere at the time of the commission of this crime; but on the other hand the State must convince you beyond a reasonable doubt of the fact that he was present and actually participated in this crime before you can find him guilty.

5. If the defendant's alibi has created such a degree of uncertainty as to his whereabouts that you are not satisfied beyond a reasonable doubt as to his guilt, he should be acquitted.

6. If the defendant by his alibi has raised a reasonable doubt in your mind as to whether or not he was actually present at the place where this crime is alleged to have been committed he should be acquitted.

7. You are not to consider any of the testimony relative to the identification of Mr. Unger in considering the guilt or innocence of Mr. Karp.

8. The statement offered in evidence by the State relating to the testimony of William Strasvogle cannot be considered as evidence against the defendant Mr. Karp; it can only be considered as neutralizing the testimony of that witness.

9. The jury must bear in mind that they cannot

speculate but must decide this case solely upon the evidence presented; and are not to allow or permit any bias, prejudice or any other feeling to enter into their deliberations.

10. The statement alleged to have been made by the State's witness William Strasvogle and offered in evidence by the State in contradiction of Strasvogle, cannot be considered as evidence in the cause, but only as tending to neutralize or discredit the sworn testimony of said witness.

I so charge you. I now direct the officers to be sworn.

I notice a further request in behalf of Mr. Karp:

The jury have the right to consider the evidence of the good reputation of the defendant, and such evidence of itself or in connection with other evidence, may create in the jury's mind, a reasonable doubt of the defendant's guilt.

I so charge you and direct that the officers be sworn.

Mr. Stein: Does your Honor refuse to charge the first request?

The Court: I refuse to charge the first and second because I have already covered them.

(The jury then retired.)

Mr. Stein: I except to the refusal of the Court to charge the requests of the defendant Unger.

Mr. Ward: I also except to the refusal of the Court to charge the requests of Mr. Karp.

The Court: An exception will be noted for both defendants. I also direct that the court remain open and the clerk will take the verdict in the absence of the Court.

Certificate of Proceedings.

This is to certify that the foregoing constitutes all of the proceedings had on the trial of the above-entitled cause wherein the State is complainant and George S. Unger and Solly Karp are defendants.

In Witness Whereof, I have hereunto set my hand and seal this 29th day of March, 1926.

JOS. A. DELANEY,
Judge.

Specifications of Causes for Reversal.

NEW JERSEY SUPREME COURT.

STATE OF NEW JERSEY, Defendant-in-Error, vs. GEORGE S. UNGER and SOLLY KARP, Plaintiffs-in-Error.	In Error to Passaic Quarter Sessions. Specifications of Causes for Reversal.

The plaintiffs-in-error assign the following reasons or causes for reversal of the judgment and verdict in the above-entitled cause, upon the whole record.

FIRST: Because the Court erred when it directed a person sitting with the defendants and their attorneys to be removed although counsel deemed said person necessary to the proper conduct of the case for the said defendants.

SECOND: Because the Court erred in refusing to permit the following question to be asked of the wit-

ness, Thomas F. Quaine, "So the man who grabbed the bag and ran away with it, whom the State declares to be Mr. Unger, you cannot identify."

THIRD: Because the Court erred in permitting the State to ask the witness, William Starufogel, the following question, "Was it true what you say in there?" the defendants objecting thereto on the ground that it was impeaching the State's own witness.

FOURTH: Because the Court erred in permitting in evidence Exhibit S1 for the State, over the objection of counsel for the defendants.

FIFTH: Because the Court erred in admitting in evidence the revolver marked Exhibit S2 for the State, over the objection of counsel for the defendants.

SIXTH: Because the Court erred in admitting in evidence the following question asked of Mr. John Murphy, "What did Mr. Quaine do when he came into the room?"

SEVENTH: Because the Court erred in refusing to permit counsel for the defendants to ask the following question of the witness, Frank Walsh, "Question: Were you present at any time when a New York lawyer requested an interview with Mr. Karp?"

EIGHTH: Because the Court erred in permitting the following question to be asked by the State of the witness, Frank Walsh, "What instructions did you give him?"

NINTH: Because the Court erred in refusing to direct a verdict of acquittal for the defendant Karp.

TENTH: Because the Court erred in refusing to direct a verdict of acquittal for the defendant Unger.

ELEVENTH: Because the Court erred in refusing to permit the witness, Joseph Newman, to testify regarding the general reputation of the defendant George Unger.

TWELFTH: Because the Court erred in refusing to permit the defendant, Unger, to offer in evidence a certificate of discharge from the Army, marked Exhibit D1.

THIRTEENTH: Because the Court erred in refusing to permit the defendant to ask the witness, George Unger, the following question, "How many people have been brought in to you to the police station to identify you as a participant in the robbery?"

FOURTEENTH: Because the Court erred in permitting the following question to be asked of Mary Karp, a witness for the defendant, "Did he or not, support you?"

FIFTEENTH: Because the Court erred in permitting a witness, Lester Doctor, to testify as a character witness for the defendant Karp.

SIXTEENTH: Because the Court erred in refusing the following question to be asked of the defendant, Karp, "Do you know who went your security?"

SEVENTEENTH: Because the Court erred in refusing the following question to be asked of the defendant, Karp, "Did any friend of yours put up the security upon which you were released on bail?"

EIGHTEENTH: Because the Court erred in refusing the following question to be asked by the State of the defendant, Karp, "You know he is in Sing Sing, don't you?"

NINETEENTH: Because the Court erred in per-

mitting the following question to be asked by the State of the defendant, Karp, "You know what they confiscated that night?"

TWENTIETH: Because the Court erred in permitting the following question to be asked by the State of the defendant, Karp, "Was there a man sitting against the door?"

TWENTY-FIRST: Because the Court erred in permitting the following question to be asked by the State of the defendant, Karp, "Did the officers have to push the door in?"

TWENTY-SECOND: Because the Court erred in permitting the following question to be asked by the State of the defendant, Karp, "You are known as 'Solly, the Blade,' are you not?"

TWENTY-THIRD: Because the Court erred in permitting the following question to be asked by the State of the defendant, Karp, "Did anyone ever call you that?"

TWENTY-FOURTH: Because the Court erred in permitting the following question to be asked by the State of the witness, Abe Jaffe, "Were you masquerading as Peter Cohn?"

TWENTY-FIFTH: Because the Court erred in permitting the following question to be asked by the State of the witness, Abe Jaffe, "You were not there masquerading under another name?"

TWENTY-SIXTH: Because the Court erred in admitting in evidence Exhibit S3 for the State.

TWENTY-SEVENTH: Because the Court erred in permitting four masks to be offered in evidence by the State over the objection of the defendants.

TWENTY-EIGHTH: Because the Court erred in permitting the following question to be asked of the defendant, Moffett, by the State, "How did you get into the other room?"

TWENTY-NINTH: Because the Court erred in refusing to permit the following question to be asked of the defendant, Murphy, on cross-examination, "Mr. Cohn called, or when he saw him or met you in New York, complained about the treatment that had been accorded to this man by the New York detective?"

THIRTIETH: Because the Court erred in refusing to permit the following question to be asked of the defendant, Murphy, on cross-examination, "Didn't Mr. Cohn complain to you at that time about the way Karp had been beaten up by Walsh & Lynch?"

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THIRTY-THIRD: Because the Court permitted the following question to be asked on cross-examination of the defendant, Cook, "Did anybody with you have anything belonging to Unger?"

THIRTY-FOURTH: Because the Court erred in refusing the following question to be asked of the defendant, Cook, "Didn't you bring this over from

New York along with other effects that you and your colleague stole out of the house?"

THIRTY-FIFTH: Because the Court erred in refusing the following question to be asked of the witness, Cook, "Your colleague just stepped out, didn't he?"

THIRTY-SIXTH: Because the Court committed legal error in its charge to the jury as follows: "The burden of proof is on the defendants."

THIRTY-SEVENTH: Because the Court erred in refusing to charge the first request to charge of the defendants, "The jury in considering the evidence must start with the legal presumption of the defendants' innocence, which presumption must continue throughout all their deliberations, unless the evidence establishes the defendants' guilt beyond all reasonable doubt."

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STEIN & STEIN,
Attys. Plaintiffs-in-Error.

Assignments of Error.

NEW JERSEY SUPREME COURT.

STATE OF NEW JERSEY, Defendant-in-Error, vs. GEORGE S. UNGER and SOLLY KARP, Plaintiffs-in-Error.	In Error to Passaic Quarter Sessions.

Afterwards, in the Supreme Court of the State of New Jersey, come the said George S. Unger and Solly Karp, and say that in the record and proceedings aforesaid, and also in the minutes recited and contained in the bill of exceptions, and also in the giving of the verdict and judgment as aforesaid, there is manifest error in this respect, to wit:

FIRST: Because the Court erred when it directed a person sitting with the defendants and their attorneys to be removed although counsel deemed said person necessary to the proper conduct of the case for the said defendants.

SECOND: Because the Court erred in refusing to permit the following question to be asked of the witness, Thomas F. Quaine, "So the man who grabbed the bag and ran away with it, whom the State declares to be Mr. Unger, you cannot identify?"

THIRD: Because the Court erred in permitting the State to ask the witness, William Starufogel, the following question, "Was it true what you say in there?" the defendants objecting thereto on the ground that it was impeaching the State's own witness.

FOURTH: Because the Court erred in permitting in evidence Exhibit S1 for the State, over the objection of counsel for the defendants.

FIFTH: Because the Court erred in admitting in evidence the revolver marked Exhibit S2 for the State, over the objection of counsel for the defendants.

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EIGHTH: Because the Court erred in permitting the following question to be asked by the State of the witness, Frank Walsh, "What instructions did you give him?"

NINTH: Because the Court erred in refusing to direct a verdict of acquittal for the defendant Karp.

TENTH: Because the Court erred in refusing to direct a verdict of acquittal for the defendant Unger.

ELEVENTH: Because the Court erred in refusing to permit the witness, Joseph Newman, to testify regarding the general reputation of the defendant, George Unger.

TWELFTH: Because the Court erred in refusing to permit the defendant, Unger, to offer in evidence

NEW JERSEY COURT OF ERRORS

~~AND APPEALS.~~

State of New Jersey,
Defendant-in-Error,

- VS -

George S.Unger and
Solly Karp,
Plaintiffs-in-Error.

- - - - - - - - - - - - - - - - -

On Writ of Error.
Stipulation.

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J.Vincent Barnitt,Esq.,
Prosecutor of the Pleas and
Counsel for Deft.in Error,
Court House,
Paterson, N.J.

NEW JERSEY COURT OF ERRORS AND APPEALS.

THE STATE OF NEW JERSEY, Defendant-in-Error, - VS - GEORGE S.UNGER and SOLLY KARP, Plaintiffs-in-Error.	ON WRIT OF ERROR TO THE SUPREME COURT. STIPULATION TO AMEND STATE OF CASE.

It is hereby stipulated and agreed by and between J. Vincent Barnitt, Esq., Prosecutor of the Pleas and of Counsel for Defendant-in-Error, and Benjamin L. Stein, Esq., of Stein & Stein, Attorneys for and of Counsel with Plaintiffs-in-Error that the State of the Case, filed in this cause, be amended as follows:

On page 278, line 38 should be changed to

"The burden of proof is on the State",

in place of as the State of the Case disclosed it

"The burden of proof is on the Defendant."

J. Vincent Barnitt

Prosecutor of the Pleas and of Counsel for Defendant-in-Error.

Stein & Stein

Attorneys for and of Counsel with Plaintiffs-in-Error.

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STEIN & STEIN,
Attys. Plaintiffs-in-Error.

Opinion of the Court.

NEW JERSEY SUPREME COURT.

STATE OF NEW JERSEY,
Defendant-in-Error,

vs.

GEORGE S. UNGER and SOLLY KARP,
Plaintiffs-in-Error.

Error to Passaic Quarter Sessions.

Argued before Gummere, C. J., and Justices Trenchard and Minturn.

For the plaintiffs-in-error, Stein & Stein and Peter Cohn.

For the State, J. Vincent Barnitt, Prosecutor of the Pleas.

The opinion of the Court was delivered by Trenchard, J. There is brought up for review, both by bills of exceptions and by specifications of causes for reversal under Section 136 of our Criminal Procedure Act, of the convictions of George S. Unger and Solly Karp (plaintiffs-in-error), in the Court of Quarter Sessions of the County of Passaic, on two indictments.

One indictment charges that on the 7th day of March, 1925, the defendants, together with John Doe and Richard Roe, in the City of Paterson, did commit an assault with a pistol upon one Nehemiah Vreeland, and the other indictment charges that such defendants, together with the persons mentioned, did forcibly take from the

person of Nehemiah Vreeland and rob him of $17,900 in money, being the property of the Manhattan Shirt Company.

The cases were tried and have been argued here together.

We shall consider such matters only as have been raised and argued.

We find no error justifying reversal in the action of the Trial Judge in ordering the removal of a person sitting at the counsel table.

The order complained of was made, on motion of the State, at the time the trial was moved. Of course, a defendant is entitled to a fair, impartial and public trial and to be represented by counsel. But the person removed from the counsel table was neither a defendant nor of counsel. The defendants' sole objection to such order was that such person was "necessary in consultation and the conduct of the case." But he was not excluded from the court room, being ordered merely to leave the counsel table, and was therefore accessible if and when it became necessary to consult him with reference to the conduct of the cause.

The preservation of order and dignity in the court room is one of the duties of the Court, and in the administration of this duty the Court has a wide discretion with the exercise of which a reviewing Court will not interfere in the absence of abuse of such discretion (Stein v. Goodenough, 73 N. J. L. 816; State v. Genese, 130 Atl. Rep. 642; Myers v. State, 79 Ga. 76).

While, of course, every person accused of crime is entitled to a public trial, the presiding

Judge should not permit the bar or court room to become so crowded as to impede the progress of the trial by rendering it difficult for the jurors to enter or leave the box, or by preventing free movement of counsel and witnesses; moreover, the jury should not be in such close and constant contact with the audience as that remarks of bystanders as to the guilt or innocence of the accused, or other indications of public feeling for or against him, may reach their ears or come under their observation. The bar, at least, should at all times be kept sufficiently open and clear for the prompt and orderly dispatch of the business of the Court. Here, as we have pointed out, the person removed was neither a defendant nor of counsel. He was not removed from the court room, but merely from the counsel table, and such a discretionary order will not lead to a reversal unless it appears that thereby the defendants suffered manifest wrong or injury. In this case there was no such showing, there being nothing to indicate that the defendants were deprived of consultation with him at any time during the trial of the case.

We think that the Court did not err in permitting the State to ask the witness, William Starufogel, the following question: "Was it true what you say in there?"

This witness, when produced on behalf of the State, testified that he could not identify any of the defendants. The State was surprised thereby because Starufogel had previously identified the defendant Unger and had made a statement

to that effect. Under such circumstances the State, having been thus surprised into offering evidence, the effect of which was exactly contrary to what it was endeavoring to prove, viz: The guilt of the defendant, had the right, if it could do so, to neutralize the effect of such evidence by proving the self-contradictory statements of the witness to show that such evidence was untrustworthy (State v. D'Adame, 84 N. J. L. 386, 395). The testimony was therefore proper for that purpose, and the statement itself was likewise properly admitted in evidence for the same purpose.

We think that there was no error in the admission of the revolver in evidence. The testimony tended to show that at least one of the bandits who committed this highway robbery had and used a revolver in the "hold-up," and that one of them fled from the scene of the robbery through the tunnel at the entrance of which the revolver offered in evidence was found a few minutes after the robbery.

There was no error in the denial of the motion for a direction of an acquittal of both defendants which was made at the close of the State's case. Such a motion, although reviewable under Section 136 of the Criminal Procedure Act, will only justify a reversal of the conviction when there was no evidence proper to be submitted to the jury which would support a conclusion of guilt (State v. Lieberman, 80 N. J. L. 506; affirmed, 82 *id.* 748). Here, there was evidence tending to show the guilt of both defendants.

We think that the Court did not err in refusing to permit the witness Joseph Newman to testify regarding the general reputation of the defendant Unger.

A character witness for the accused is not competent unless it is first shown that he knows the general reputation of the accused in the neighborhood in which the latter lives, in respect to the trait involved in the charge. The witness Newman testified that he did not know where the accused lived. He was therefore incompetent to testify as to the reputation of the accused for peace and quiet (State v. Polhemus, 65 N. J. L. 387; Bullock v. State, *id.* 557; State v. Brady, 71 *id.* 360).

We think that the Court did not err in refusing to admit in evidence a certificate of the defendant Unger's discharge from the army. The defendant offered it avowedly for the purpose of showing his reputation. Of course, a person on trial for a criminal offense is entitled to give evidence as to his reputation in the neighborhood in which he lives in respect to the trait involved in the charge, but a certificate of discharge from the army is not relevant for that purpose 16 C. J. 583, and cases there collected).

We think there was no error justifying a reversal in the action of the Court in admitting in evidence four masks offered by the State. The defendant Unger, in his direct-examination, testified that when police officers walked into the room in New York where the defendants were, about two months prior to the highway robbery, there were four masks in the room, and the defendant Karp testified on his direct-exam-

ination that he was present on that occasion. We, therefore, think that the defendants did not suffer manifest wrong or injury by the admission of such masks in evidence, after they had been identified by the police officer as the masks that were on the table in the room on the occasion spoken of by the defendants.

Assignments of error and causes for reversal numbers 13, 16, 18, 20, 22 and 23 relate either to the admission or rejection of evidence. We have examined them with care and find no error—certainly none which in our judgment could have prejudiced the accused in maintaining their defense upon the merits. They, therefore, present no reason for a reversal (State v. Lewis, 98 N. J. L. 618).

The remaining assignments of error and causes for reversal were expressly withdrawn at the argument.

The judgments under review will be affirmed.

Order on Affirmance of Judgment.

NEW JERSEY SUPREME COURT.

THE STATE OF NEW JERSEY, Defendant-in-Error, vs. GEORGE S. UNGER and SOLLY KARP, Plaintiffs-in-Error.	On Appeal from the Court of Quarter Sessions of Passaic County.

This cause having been duly argued and submitted on brief at the May Term, 1926, of this Court by Messrs. Stein & Stein of counsel for the plaintiff-in-error and J. Vincent Barnitt, of counsel for the defendant-in-error, and the Court having considered the same, and finding no error in the record or proceedings in the Court of Quarter Sessions.

It is thereupon, on this 18th day of November, in the year of our Lord, one thousand nine hundred and twenty-six, ordered and adjudged that the judgment of the Court of Quarter Sessions, removed by the appeal in this cause, be affirmed with costs, and that the record be remitted to the Court of Quarter Sessions to be proceeded with in accordance with this judgment and the practice of said Court.

Entered, Nov. 18th, 1926.

On motion of

J. VINCENT BARNITT,
Attorney for Defendant-in-Error.

Writ of Error.

New Jersey, ss:

THE STATE OF NEW JERSEY to the Chief Justice and other Justices of our (Seal.) Supreme Court of Judicature, GREETING:

Because in the record and proceedings, and also in the giving of judgment in a certain plaint which was in our said Supreme Court of Judicature, before you, between the State of New Jersey and George S. Unger and Solly Karp, defendants upon indictments, manifest error hath intervened to the great damage of the said defendants, as by their complaint we are informed; we being willing that the error if any there be, should in due manner be corrected, and full and speedy justice be done to the parties aforesaid in this behalf, do command you, that if judgment be thereupon given and affirmed, then you distinctly and openly send under your seal, the record and proceedings and plaint aforesaid, with all things touching and concerning the same, to our Court of Errors and Appeals in the last resort in all causes, at Trenton, on the 29th day of December, 1926, together with this writ, that the record and proceedings aforesaid being inspected, we may cause to be done thereupon, for correcting that error what of right and according to the law and custom of the State of New Jersey, ought to be done.

Witness, our Chancellor and President Judge of our said Court of Errors and Appeals, at Trenton aforesaid, the ninth day of December, 1926.

JOSEPH J. S. FITZPATRICK,
Clerk.

Stein & Stein,
Attorneys.

Assignments of Error.

NEW JERSEY COURT OF ERRORS AND APPEALS.

STATE OF NEW JERSEY, Defendant-in-Error, vs. GEORGE S. UNGER and SOLLY KARP, Plaintiffs-in-Error.	On Error to Supreme Court.

New Jersey, ss:

Afterwards, to wit, on return of said writ, before the New Jersey Court of Errors and Appeals at Trenton, came the said George S. Unger and Solly Karp, by Stein & Stein, their attorneys, and say that in the record and proceedings aforesaid, and also the giving of judgment, there are manifest errors, to wit:

1. Because the Supreme Court erred in giving judgment for the State of New Jersey, and affirming the judgment of the Passaic County Court of Quarter Sessions, instead of giving judgment for the plaintiffs-in-error, and reversing the judgment of the Passaic County Court of Quarter Sessions, for the several reasons set forth in the assignments of error and specifications for reversal.

STEIN & STEIN,
and
PETER COHN,
Attorneys of Plaintiffs-in-Error.

9 OCT.T.1927

NEW JERSEY COURT OF ERRORS AND APPEALS

THE STATE OF NEW JERSEY, Defendant-in-Error, vs. GEORGE S. UNGER and SOLLY KARP, Plaintiffs-in-Error.	On Error from Supreme Court.

BRIEF OF PLAINTIFFS-IN-ERROR.

Defendants were convicted in the Court of Quarter Sessions in and for the County of Passaic, at the April Term, 1925, on two indictments, the one charging that on March 7, 1925, defendants, with two unknown persons, committed an assault with a pistol upon a named person, and the other charging that such defendants, together with the unknown persons, did forcibly take from the person of one Vreeland, and rob him of $17,000 in money. The cases were tried together; and after conviction were carried by writ of error to the Supreme Court and there argued together.

They are brought to this court on writ of error from the Supreme Court.

The assignment of error is found on page 303 of Case. The specific errors to be argued here are:

1. The admission in evidence of four masks over the objection of defendants (Case, page 260);

2. The refusal of the Trial Court to charge a request by defendants, which request to charge was in the following words:

> "A reasonable doubt in law is that state of mind, which, after fairly considering all the evidence, leaves the mind of the juror in such a condition that he cannot say that he feels an abiding conviction of the defendant's guilt as charged."

3. The Court erred in admitting in evidence the revolver, marked Exhibit S2;

4. The Court erred in refusing to direct a verdict of acquittal for the defendant, Karp;

5. The Court erred in refusing to direct a verdict of acquittal for the defendant, Unger;

6. The Court erred in refusing to permit the witness, Joseph Newman, to testify regarding the general reputation of the defendant, Unger;

7. The Court erred in refusing to permit the defendant, Unger, to offer in evidence a certificate of discharge from the army;

8. The Court erred in allowing the following question to be asked by the State of the defendant, Karp, "You know he is in Sing Sing, don't you?";

9. The Court erred in permitting the following question to be asked by the State of the defendant, Karp, "Was there a man sitting against the door?";

10. The Court erred in permitting the following question to be asked by the State of the defendant, Karp, "Did the officers have to push the door in?";

11. The Court erred in permitting the following question to be asked by the State of the defendant, Karp, "You are known as 'Solly, the Blade,' are you not?"

I.

The Supreme Court should have reversed the judgment of the Passaic County Court of Quarter Sessions, because the Trial Court committed reversible error, in admitting four masks in evidence, over the objection of defendants.

The crime of which defendants were charged was committed on March 7, 1925, at Paterson. It was not claimed by the State that these masks were in Paterson on that date or any other, or were then in their possession or control; these masks, it was shown by the State, were seized (and apparently retained) by New York police officers in a raid on premises at 231 East 98th Street, New York City, on December 28, 1924—five men, including these two defendants, being then arrested, all but one of whom (that one being neither of these defendants) were exculpated and discharged on the following day by the New York Police Court, before whom they were taken (Case, pages 258-261, testimony of Officer Griffin).

The display of these masks by the State was

objected to by defendants, and the objection overruled; and they were then admitted in evidence on motion of the State, over defendants' objection (Case, page 260, lines 19-34, and page 261, lines 21-22).

Both defendants had offered evidence of their good reputation in the respective communities in which they lived (for defendant, Karp, the testimony of Doctor, Eckart, Lessor and Kostler, page 182, lines 1-15, page 186, lines 25-31, page 197, lines 18-22, and page 202, lines 6-10; and for defendant, Unger, the testimony of Steinberg and Wallach, page 117, lines 17-20, and page 130, lines 15-20); and in the State's printed brief when this cause was before the Supreme Court, it was intimated (Brief, page 25, lines 3-13) that the introduction of the masks was properly admitted to rebut such evidence of reputation. But the means of rebutting evidence of good reputation lies in offering the testimony of witnesses to bad reputation; and there is no other competent means, except by cross-examination of witnesses who testify to good reputation. So strictly is this the rule, that it is not permissible for the State

> "to rebut evidence of good character by inquiring whether accused had been charged with or convicted of crime; or whether he had pleaded guilty to another offense" (16 *C. J.*, page 84; *Criminal Law*, §1125).

In this instance, the Trial Court made no inquiry of the State in respect to the purpose or object in offering the masks in evidence. The State could have had no legal object.

Masks are the outfit and tools of crime and

are particularly associated in the general mind with crime of the sort (highway robbery) of which these defendants were accused, and for which they were on trial.

In the opinion filed by the Supreme Court in this cause, it is not said that the masks were rightly admitted (Case, page 299, last paragraph); but the Court arrived at the conclusion that, inasmuch as the defendants had themselves described the raid in New York, and one of them had alluded to the presence of masks in the room raided, the admission of the masks, after identification by the police officer, did not result in such manifest wrong and injury as to require reversal.

Defendant, Unger, claimed that he was not an associate or friend of the defendant, Karp; but had accidentally met him in a New York restaurant in December, 1924, and had never seen him since (Case, page 139, lines 32 to bottom, and page 140, lines 1-17); and when questioned by his counsel, he gives particulars connected with the raid (Case, page 140, lines 25 to bottom, and page 141, lines 1-28, and page 142, lines 21 to bottom, page 143, and page 144, lines 1-35); and he testified that one of the officers "started to search the people and one fellow had a blackjack and another fellow had four masks with him" (Case, page 141, lines 10-18). He was asked whether the masks were on the table when the officer came in, and said he didn't see them there (Case, page 141, lines 33-36). Defendant, Karp, also says that he had never met the other defendant, until the trial of this present cause, except in the New York restaurant; and told why he went into the

room in which the raid was made and said that the officers found a man with a blackjack there and arrested "the whole crowd," and that he was discharged on the following morning (Case, page 206, lines 12 to bottom, and page 207, lines 1-8). He makes no mention of masks in his direct-examination; and denies, when cross-examined, that there were masks on the table (Case, page 218, lines 9-10), and again tells about a blackjack in the hands of another party (Case, page 218, lines 27-32). The police officer, Griffin, testifying in rebuttal, said that the masks were on the table (Case, page 259, last five lines, and page 260, lines 1-2); and the admission of this testimony for the purposes of contradiction upon an incidental and remote matter, was within the discretion of the Trial Court.

The harm did not lie in the evidence of the police officer that the masks were on the restaurant table two months before the commission of the Paterson crime; it lay in the concrete production of the sinister things in the court room in Paterson, more than two months later. An atmosphere prejudicial and hostile to the defendants naturally emanated from the tangible masks at the scene of the trial. Repulsive in themselves because of their association with crime, their presence tended to make the defendants repellent because of their former accidental association with them. And accidentally their passing association with them must be presumed to be, because whatever the charge on which the arrests at the raid were made, these defendants were immediately acquitted.

These masks had no right in the Passaic

County Quarter Sessions in the course of the trial, and they were brought there with calculation of the baleful influence which the physical sight of them would exert upon an impressionable jury of men and women of orderly and peace-loving habits.

Suppose that indictment had been for homicide; and a murderous knife had been seized in like circumstances in the New York raid, and retained by the New York authorities until the trial of the homicide case in Paterson, and then produced and brandished and admitted in evidence in like circumstances as these masks were admitted. Could this Court say that the tendency of that exhibition would not be to prejudice the accused? It would serve no other purpose but just that.

II.

The Supreme Court should have reversed the judgment of the Passaic County Court of Quarter Sessions upon the ground that the Trial Court committed reversible error in refusing to charge defendants' second request.

The request to charge in question is No. 38 of specification of causes for reversal (Case, page 288, last 7 lines) and the corresponding number in assignments of errors (Case, page 294, last 7 lines). Exception was duly taken to the refusal (Case, page 282, lines 27-38).

The request was that the Court should define reasonable doubt, and was put in expressive and accurate language:

> "A reasonable doubt in law is that state of mind which, after fairly considering all the evidence, leaves the mind of the juror in such a condition that he cannot say that he feels an abiding conviction of the defendant's guilt as charged."

The Trial Court said:

> "I refuse to charge the first and second because I have already covered them" (Case, page 282, lines 29-30).

The endeavor to charge the request in question appears in a single paragraph of the charge (Case, page 279, first 7 lines); and the charge (Case, pages 279-282) will be searched in vain for any other effort.

The trouble with this endeavor is that it is incorrect and wrong. The error lies, not in the first, but in the second, of the two sentences which comprise it. It runs as follows:

> "Reasonable doubt is not a mere possible doubt. It is that state of the case which, after the entire comparison and consideration of all the evidence leaves the minds of the jurors in that condition that they feel an abiding conviction to a moral certainty of the truth of the charge."

That language, while purporting to define reasonable doubt, states in fact what constitutes the *absence* of reasonable doubt. If the avowed purpose of the Court had been to instruct the jury as to what amounts to the *absence* of reasonable doubt, that purpose would have been achieved by the words which were used. But it is obvious that the pronoun "it" refers back to the subject of the preceding sentence, and could have referred to nothing else.

By interpolating the words "that they cannot say" between "condition" and "that they feel," etc., a correct definition will have been framed; in fact, it would be phrased in the identical manner recommended by this court (*State vs. Linker,* 111 Atl. 35, 37) to be used by Trial Courts for the purpose.

It cannot be said that the jury supplied the omitted negative phrase, or deduced from the misleading and puzzling words actually used, a true and unconfused definition.

It is not the province of the jury to reform the language of the Court.

The subject dealt with was not of slight or incidental, but of the very first, order of importance.

We are familiar with the fact that

> "the rule has long been established by an unbroken line of judicial authority, that the refusal to give a requested instruction, even though it states the law correctly, does not constitute reversible error if it is substantially covered by the instructions given, or if everything in the requested instruction which the party is entitled to have given, has already been given in other instructions" (14 *R. C. L.,* page 752; *Instructions,* §22).

But here neither of these alternatives were present; and the jury went into their deliberations without any illuminating or correct exposition of a principle of the criminal law to which every accused has been immemorially entitled.

III.

The Court erred in admitting in evidence the revolver, marked Exhibit S2.

(Page 85, line 35.) The testimony of the witness, Keyes, for the State (page 84), was to the effect, that he was passing through Straight Street, near the tunnel, at half past nine or ten o'clock, and that he saw a gun laying in the road at Straight and Fulton Streets (page 85, line 15). There was no testimony connecting either of the defendants with the possession of this gun. While the robbery took place that morning, there was no evidence in the case connecting either of the defendants with the use of this gun. The admission thereof was highly prejudicial to both defendants.

IV.

The Court erred in refusing to direct a verdict of acquittal for the defendant, Karp.

The examination of the testimony offered in behalf of the State, shows that no witness was produced identifying the defendant as being in any way connected with the robbery, excepting the testimony of the witness, Guaine (page 15, line 20). We think that the evidence of this witness for the State was not sufficient to overcome the alibi presented by the defendant, Karp, and that a verdict of acquittal should have been directed for him.

V.

The Court erred in refusing to direct a verdict of acquittal for the defendant, Unger.

There is no testimony whatsoever in the State's case, connecting the defendant, Unger, with this robbery, excepting the testimony of the witness, Sherman (page 114).

His testimony was that he saw a man running away and that when he was brought back, he identified him as the same man who was running (page 115, line 22).

VI.

The Court erred in refusing to permit the witness, Joseph Newman, to testify regarding the general reputation of the defendant, Unger.

This witness was called in behalf of the defendant (page 123), and testified that he knew the defendant and had known him for five years, and that he knew he was living in New York City, between 99th and 100th Streets, on Madison Avenue, and that he knew he had been recently living on 67th Street.

The State objected to this witness testifying (page 124, line 40), and the Court sustained the objection.

This was highly prejudicial to the defendant, Unger, for the reason that he was a stranger in the jurisdiction where he was being tried and his general reputation in the city where

he lived was of the highest importance, for the jury had a right to consider that in determining his guilt or innocence.

The rule has long since been established in this state that the good reputation of a defendant may be sufficient to raise a reasonable doubt and lead to an acquittal.

State vs. Thome, 83 N. J. Law 799.
Baker vs. State, 53 N. J. Law 45.

This witness was called at the morning session and at the afternoon session the Court informed counsel that this witness could be called (page 278). The Court was informed that the witness had left on the 12:27 train and was not in court at the time.

VII.

The Court erred in refusing to permit the defendant, Unger, to offer in evidence a certificate of discharge from the army.

The defendant offered in evidence (page 133, line 10) a certificate of discharge from the army, which the Court refused to permit in evidence (page 134, line 1). Bearing in mind that this defendant was a nonresident of New Jersey and was charged with the commission of a serious offense, the jury had a right to know who he was, and what his past record and reputation were. In denying this right to the defendant, Unger, serious and wrongful injury was done him.

VIII.

The Court erred in allowing the following question to be asked by the State of the defendant, Karp, "You know he is in Sing Sing, don't you?"

This question was asked on cross-examination of the defendant, Karp (page 217, line 11). It referred to a man by the name of Pagano who was in the company of the two defendants six months before this robbery at some place in New York, all of which had no connection with the trial of these defendants whatsoever. To permit this question to be asked was to create an atmosphere in the minds of the jury that the defendants were in the company of men who were convicted of crime months before the alleged robbery, and this might have serious consequences in affecting the minds of the jury, respecting the guilt of these defendants, on evidence entirely foreign to the trial of this case.

IX.

The Court erred in permitting the following question to be asked by the State of the defendant, Karp, "Was there a man sitting against the door?"

This question, on page 220, line 10, together with the others following it, tended to create an atmosphere pertaining to the conduct of the defendants at the City of New York months before the alleged crime and the result was, no doubt, to prejudice the minds of the jury respecting the character of the defendants.

X.

The Court erred in permitting the following question to be asked by the State of the defendant, Karp, "Did the officers have to push the door in?"

This alleged error deals with the same proposition discussed in the previous assignment and tended to create an atmosphere of prejudice against the defendants.

XI.

The Court erred in permitting the following question to be asked by the State of the defendant, Karp, "You are known as 'Solly, the Blade,' are you not?"

On page 229, line 30, this question and another were asked of the defendant but with the objection of the defendant, and tended to create a prejudicial atmosphere against the defendant.

Respectfully submitted,

STEIN & STEIN,
PETER COHN,
Attorneys for Plaintiffs-in-Error.

BENJ. L. STEIN,
Of Counsel.

New Jersey Court of Errors and Appeals

The State of New Jersey, Defendant-in-Error, vs. George S. Unger, and Solly Karp, Plaintiffs-in-Error.	On Writ of Error to Supreme Court.

Brief of Defendant-in-Error

The Writ of Error in this case brings up for review the conviction of George S. Unger and Solly Karp by the jury of the Court of Quarter Sessions of the County of Passaic, at the April Term, 1925, on two indictments.

One indictment charges that on the 7th day of March, 1925, the defendants, together with John Doe and Richard Roe, (the latter two persons being unknown), in the City of Paterson, N. J., did commit an assault with a pistol upon one Nehemiah Vreeland, and the other indictment charges that said defendants, together with the persons mentioned, did rob and take off the person of said Nehemiah Vreeland, money, goods and chattels of the value of $17,900.00, being the property of the Manhattan Shirt Company.

The Writ of Error was sued out from the Supreme Court to the Court of Quarter Sessions, and the Supreme Court affirmed the conviction of the defendants (S. of C., 301). The case is now before this Court on a Writ of Error to the Supreme Court.

POINT ONE

THE STATE CONTENDS THAT THE TRIAL COURT DID NOT ERR IN PERMITTING FOUR MASKS TO BE OFFERED IN EVIDENCE BY THE STATE, AND MAINTAINS THAT THE ACTION OF THE SUPREME COURT WAS CORRECT IN REFUSING TO REVERSE THE JUDGMENT OF THE TRIAL COURT.

The defendants in their defense substantially attempted to prove that at the time of the commission of the crime they did not participate in such. The defendant, Unger, testifying that his reason for being near the scene of the crime being brought about by reason of his expectations in meeting a friend of his near the vicinity of the place where the crimes were committed. The defendant, Karp, offered proof to show that at the time of the commission of the crimes, he was not near or in the vicinity of the place where such crimes were committed, and, in fact, attempted to prove that he was in New York City at the time the crimes were committed. Both of said defendants offered testimony to prove their good character.

The defendant, Unger, testified under direct examination, on page 141, lines 10-20, in connection with an occasion prior to the time of the commission of the crimes for which the defendants were convicted, that in the month of December, 1924, he, the defendant, Unger, when arrested with four other individuals, among whom was the defendant, Karp, and with reference to the occasion of the arrest, in December, 1924, in which the said Unger

and Karp were taken into custody, Unger testified, on page 141, lines 10-20, as aforementioned, that one Officer Moffett, one of the arresting officers, walked in the room in a restaurant in New York City, where the arrest took place and as he, Unger, was standing up with his hand on his overcoat and Officer Moffett asked what was going on, and defendant, Unger, answered, "Nothing I know of." That he, Officer Moffett, looked around and started to search the people and one fellow had a black jack, and another fellow had four masks with him.

The State in cross-examining this witness, as referred to on page 144, lines 33-38, inclusive, asked the defendant, Unger, if the four masks had been referred to by him on his direct examination were on the table when the officer came in, and he answered the question by stating that he did not see any four masks on the table.

In this latter connection, it will be observed from reading State of the Case, page 259-260, that one John Griffin, a Police Officer connected with the New York Police Department, testifying for the State, stated in connection with the arrest of Unger and Karp and the three other individuals referred to, that he, the said John Griffin, on pushing the door, in the restaurant where the said five individuals were, he found one of the men whom he arrested sitting against the door and he had to push with such force that he went down, and that there were four men sitting at the table and about four masks on the table, and one of the men who was sitting at the table was sewing cloth around a black jack and that he placed the five men under arrest.

This same officer testified, page 260. State of the Case, that he identified Unger and Karp the two

defendants as being two of the individuals that he arrested on the occasion referred to.

Another witness produced by the State, Thomas J. Moffet, a Police Officer of the New York Police Department, testified, page 261-262, that he was one of the two officers that entered the restaurant in New York City in December, 1924, on the occasion that Unger and Karp were arrested with three other individuals. That when he, Moffett, entered the room in the back of the restaurant, five men were seated around a table, or rather, one man was standing, and four at the table, and each had a mask in front of them on the table. This officer further testified that Mr. Unger and Mr. Karp, the two defendants, were present on the occasion when the two officers entered this room and discovered a mask in front of each of the four individuals seated at the table.

The State contends that by reason of the fact that the defendant, Unger, in his direct examination testified on page 141, that one fellow had a black-jack and another fellow had four masks with him when Officer Griffin walked in the room where the five individuals were, the court committed no error in permitting the introduction into evidence of the same four masks, in connection with which Officer Griffin testified that said four masks were the same four masks that he had taken from the table on the occasion when he, Officer Moffett, made the arrest of Unger, Karp and three other individuals.

The State further contends that in view of the testimony offered by Unger and Karp to show their previous good character and reputation, the State

committed no error in offering in evidence the four masks, especially in view of the fact that Officer Griffin testified that there were about four masks on the table in a room where Karp and Unger were with three other individuals, the door to which room having been closed, making it necessary for Officer Griffin to push the door open as something was holding it.

POINT TWO

THE TRIAL COURT DID NOT COMMIT ERROR IN REFUSING TO CHARGE THE SECOND REQUEST TO CHARGE OF THE DEFENDANTS. THE STATE MAINTAINING THAT THE SUPREME COURT WAS CORRECT IN ITS DETERMINATION IN REFUSING TO REVERSE THE JUDGMENT OF THE TRIAL COURT UPON THIS GROUND.

The court amply covered this request on page 279, line 1, and further referred to the substance of it in several requests to charge, in the following language,

> "Reasonable doubt is not a mere possible doubt, it is that state of the case, which, after the entire comparison and consideration of all the evidence leaves the minds of the jurors in that condition that they cannot say they feel an abiding conviction to a moral certainty of the truth of the charge."

POINT THREE.

THE STATE CONTENDS THAT NO ERROR WAS COMMITTED IN ADMITTING IN EVIDENCE THE REVOLVER MARKED EX. S-2.

The revolver offered and admitted in evidence (page 85, line 26) was found lying in the road by a witness produced on behalf of the State, one Donald Keyes, who testified to this effect on page 85. The witness further testified that the road where the revolver was lying when the witness first saw such was Straight and Fulton Streets, about three feet away from the tunnel at about 9:30 o'clock in the morning of the day of the assault and robbery. It will be observed that, from the testimony of William Starufogel on page 39, line 10 to 42, inclusive, and continuing on page 40, that this witness saw a man, in the vicinity of the Manhattan Shirt Mill, pull a satchel away from another man and then run to a machine, jump into the machine, and another person came over to tell the persons held up hold their hands up, and the witness further testified that the men went up towards Riverside, in a Studebaker car, and further the witness saw, as they were standing at the machine, a person pull a black satchel and run away, throw it into the car, and another person came over and told them to hold their hands up and that the witness saw a gun pointed at persons being held up.

On cross examination of this same witness, Starufogel, on page 46, lines 13-14, that this witness saw someone run up, grab the satchel and run away and that the witness saw a man run up with a pistol and he saw a man run after the car.

It will be further observed from the testimony of Arthur Rhodes, sworn as a witness for the State, (page 55, lines 30-40) that he was walking down Fulton Street, towards the railroad and saw a party run through the tunnel and that he watched this party pass the open space, saw him in the middle of the road and further saw him pass down Summer Street, and as the witness was looking up Fulton Street he saw Officer Hartley come along and he, the witness, stopped the officer in the middle of the road.

The witness further testified on page 56, lines 4 to 20, that he, together with Officer Hartley, got into the automobile, and the witness directed Officer Hartley up Fulton Street, down Summer Street to Lafayette Street, and when the witness and the officer got up to the party who was running, the party running was all out of breath and he immediately threw up his hands.

The testimony further discloses that the witness under cross examination identified the man running away as being George S. Unger, one of the defendants.

The witness further testified that he knew the man that threw up his hands was the same man that he saw running up the street.

The witness further testified on page 57, between lines 30-40, that the party running, being the party he identified as being Mr. Unger, was running through the tunnel to Straight Street, that he had cut off Fulton Street, and that Fulton Street runs in at that particular point.

On page 58, lines 4-13, inclusive, the witness further testified that the defendant, Unger, kept on

going up Straight Street when he passed the tunnel.

It will be further observed from the testimony of one John Breen, produced as a witness for the State, page 62, lines 26 to 41, inclusive, that this witness Breen had seen a man running up past a mill, that he came around a corner of Straight Street and ducked around one of the cars there and then went in on the sidewalk, ran along the mill and down the other street. The witness further testified that he could not tell the name of the other street but that he could identify the man.

He testified further that he had a brown overcoat on and a cap. That he was in court when the witness was testifying and that he pointed him out by putting his hand on him and that the party he pointed out was identified as the defendant, George S. Unger.

The defendant, George S. Unger, testified on page 165, lines 10-23, inclusive, as follows:

> "Q. After you had struck this man that had brushed against you what did you do? A. I started to run away from him.
>
> Q. Where did you run? A. First street near me.
>
> Q. Did the man that you hit follow you? A. He did.
>
> Q. How far did he follow you? A. I turned back once and saw him following me and I started to run faster and when I turned some other block I turned and he wasn't in sight after me and I was walking slow.
>
> Q. You went under the railroad track? A. I don't know, a tunnel."

From all of the foregoing the State contends that the court committed no error in admitting the revolver in evidence because of the proof produced showing that a hold-up had been committed by the use of a gun or revolver; that someone in the hold-up had pointed a pistol and then ran away from the scene of the hold-up. A party running away was observed to have run in the direction of Fulton and Straight Streets, under the tunnel, and that this party running through the tunnel and who had run away was identified as Unger and that a revolver was found shortly after Unger had run through the tunnel, lying in the road about three feet away from the tunnel, shortly after the hold-up occurred.

Under the circumstances, there was no error committed by the court in admitting the revolver in evidence.

POINT FOUR

THE COURT DID NOT COMMIT ERROR IN REFUSING TO DIRECT A VERDICT OF ACQUITTAL FOR THE DEFENDANT, KARP.

An examination of the testimony reveals that the defendant, Karp, was identified as one of the persons who perpetrated the robbery. It is true, the defendant presented an alibi which raised a question of fact and we feel that under such circumstances, it would have been imprudent for the judge to direct a verdict of acquittal. The State contends a jury question was presented by the State, because Karp was identified by Thomas F. Quaine as the man who pointed the pistol at him, page 15, lines 18-20.

POINT FIVE.

THE COURT DID NOT COMMIT ERROR IN REFUSING TO DIRECT A VERDICT OF ACQUITTAL FOR THE DEFENDANT, UNGER.

The same facts and reasoning are applicable to this point with reference to the direction of a verdict of acquittal for the defendant Unger as are urged above in answer to assignment nine.

Max Sherman, a witness produced by the State, identified Unger, page 114-115, State of the Case, as running away from a point a short distance from the scene of the hold-up.

POINT SIX

THE COURT DID NOT COMMIT ERROR IN REFUSING TO PERMIT THE WITNESS, JOSEPH NEWMAN, TO TESTIFY AS TO THE GENERAL REPUTATION OF THE DEFENDANT, UNGER.

Ordinarily testimony based upon hearsay is not admissible. However, one of the exceptions to this rule is that it is permissible to offer testimony relating to reputation, which testimony is necessarily founded upon hearsay.

The courts of our State have jealously guarded this right and have continually held that evidence relating to reputation will only be received from one who knows the reputation of the person in question, in the neighborhood in which he resides.

In the case at bar, the witness admitted that he did not know where the defendant lived. At page 124, line 25, etc., his testimony is as follows,

"Q. Do you know he lived in the neighborhood, resides there? A. No, I have never went to his house.

Q. You don't know where he lives? A. No, but I know it is in the vicinity of 99th Street.

Q. Do you know the house? A. No, sir.

Q. Were you ever there? A. No, sir.

Q. Do you know the street? A. I know the street very well.

Q. Did you ever see the house? A. No.

Q. Why do you say you know he lived there? A. I know he lived in the neighborhood.

Q. Do you know he lived in that neighborhood or meets his friends there? A. He meets his friends.

Q. You can't say he lives there? A. I don't know.

Q. You don't know where he lives? A. I don't know."

When this testimony is read in conjunction with the other testimony in the case, it becomes apparent that this witness in his last answer evidently told the truth, namely, that he did not know where the defendant lived.

On page 123, line 13, on his direct examination this witness had testified as follows:

> "Q. Do you kniw where he has been living in the vicinity? A. I do.
>
> Q. Where? A. Between 99th and 100th Street, on Madison Avenue."

Then follows a question to which we wish to direct the Court's attention.

> "Q. Do you know where he has been living recently on 67th Street? A. I do."

Consequently from his own testimony it must be apparent that he did not know where the defendant was living.

On page 124, line 15, the same witness testified as follows:

> "Q. How long has he lived in the block between 99th and 100th Street? A. That I can't tell you.
>
> Q. How long have you known he lived there? A. About a year or so, I used to see him in the neighborhood every day."

When called by the defense, the defendant, Unger, page 132, line 12, testified as follows:

> "Q. Where were you living at the time you were arrested? A. 226 East 67th Street.
>
> Q. How long have you lived there, about how long? A. About eight months, or nine months.
>
> Q. Before that where did you live? A. 74 99th Street."

We feel that if this witness told the truth when he said he didn't know where the defendant resided, he certainly was not qualified to testify as a character witness.

In the case of State vs. Polhemus, 65 N. J. L., at page 388, it is held,

> "The usual mode pursued in an examination of this kind is, first, to inquire if the impeaching witness possesses knowledge of the reputation of him whose testimony is sought to be impeached for truth and veracity in the neighborhood where the latter resides. If he does, then he should be asked to state what that reputation is, &c."

However, assuming the court was in error in refusing to admit this testimony, we do not feel that the defendant, Unger, was greatly prejudiced thereby, in view of the conflicting statements of the witness as to the place of Unger's residence.

There were other character witnesses called by the defendant. Among them a lawyer, Joseph Steinberg, and Daniel A. Wallach, both of whom testified as to his good character.

The State did not introduce any evidence to impeach the defendant's character, nor to contradict the character witnesses who were produced by the defense.

It furthermore appears from record, page 278, line 1, that the court gave the defendant an opportunity to recall Mr. Newman. The record reads as follows:

> "The Court—Mr. Stein, you may recall Mr. Newman if you desire to interrogate him further with reference to character.
>
> Mr. Stein—As I told you, he left on that 12:27 train noon time."

We, therefore, feel that, under the circumstances, the court did not commit error which was sufficiently prejudicial to the defendant as to warrant the reversal of the conviction, herein, in the case at bar.

POINT SEVEN.

THE COURT DID NOT COMMIT ERROR IN REFUSING TO ADMIT IN EVIDENCE A CERTAIN CERTIFICATE OF DISCHARGE FROM THE ARMY.

A person on trial for a criminal offense is permitted to show his good character with reference to the charge which is in issue by the testimony showing his general reputation in the community in which he lives. State vs. Brady, 71 N. J. L., 360.

The defendant in the case at bar offered this testimony, undoubtedly, for the purpose of proving his good character, but we respectfully submit that this method of proving good character is not recognized in this State, nor does it appear to be recognized anywhere. Vol. 12 Cyc., 415, note holds:

> "The reputation of the accused as a soldier while in the army is not relevant either to prove or to disprove his good character." People vs. Eckman, 72 Cal. 582, 14 Pac., 359; People vs. Garbutt, 17 Mich., 9, 97 Am. Dec., 162; Burns vs. State, 23 Tex. App., 641, 5 S. W., 140.

POINT EIGHT.

THE COURT DID NOT COMMIT ERROR IN PERMITTING THE FOLLOWING QUESTION TO BE ASKED BY THE STATE OF THE DEFENDANT, KARP: "YOU KNOW HE IS IN SING SING, DON'T YOU?"

This qustion was asked on cross-examination for the purpose of attacking the credibility of the defendant, Karp. We understand the law to be that the extent of cross-examination of a witness is largely within the discretion of the court.

> "The direction of the manner of cross-examining is in the discretion of the court. West v. State, 22 N. J. L., (2 Zab.) 212."
>
> "Questions not directly relevant to the issue, on cross-examination, are within the discretion of the judge, to prevent an undue expansion of the case by collateral facts. Jones v. Mechanics' Ins. Co., 36 N. J. L., (7 Vr.) 29, 30."
>
> "Where a party to a suit denies the principal allegation or charge made against him, in his direct examination, he thereby lays himself liable to a cross-examination upon every circumstance or transaction with which he was connected, which may tend to establish the allegation or charge. Pullen v. Pullen (Ch. Ct.), 5 Atl., 639."

In this instance, we do not feel that this discretion was abused by the court in permitting this

question to be asked. The witness had testified (page 217, line 5) as follows:

> Q. Wasn't it Pagano that was convicted? A. Not that I know of.
> Q. Don't you know? A. No, sir.
> Q. You don't know? A. No, sir.

Then followed the question under consideration.

> Q. You know he is in Sing Sing, don't you?

To which the following objection was made.

> Mr. Ward—I object to the question, we are not trying Pagano.
> The Court—It goes to the credibility of the witness.
> Defendant excepts.
> Exception allowed and signed and sealed accordingly.

Then the answer follows:

> A. Not until I got here I never knew it.

We feel that if the defendants had any other reason or ground for exception, other than that stated, it should have been made known to the court. Especially since it appears from the context that the witness had previously stated to the police officers that he did not know any of the men sitting in the restaurant.

At page 263, line 20, Joseph Mosley, Captain of Detectives, Police Department, Paterson, testifies with reference to the defendant, Karp.

> Q. Did he, at that time, deny that he had ever seen Unger, or knew him? A. He did.

It must be remembered that each of these defendants had been identified as the persons who participated in this robbery, and the occasion about which the defendant was being questioned was one upon which the two defendants were present together with Pagano.

We feel that the circumstances of that meeting and the familiarity with which these defendants, and especially Karp, had with Pagano, at that time, in view of their contradictory statements regarding the same were proper subjects of inquiry on cross-examination and we, therefore, are satisfied that the court did not commit error in permitting the question to be asked.

POINT NINE

THE COURT DID NOT COMMIT ERROR IN PERMITTING THE WITNESS, KARP, TO BE ASKED THE QUESTION: "WAS THERE A MAN SITTING AGAINST THE DOOR?"

This question related to the same question as the previous assignment, namely, the occasion when the defendants were apprehended in New York City, the month of December, 1924. The question was asked on cross-examination and related to the cir-

cumstances under which the arrests were made as was stated above, it was an occasion when the defendants, Karp and Unger, were together in the back-room of a restaurant in New York City. The object of the question, of course, was that these defendants knew each other well enough to seclude themselves in the rear room of a restaurant and barricade the door.

We feel, as stated above, that it was proper on cross-examination to inquire as to the condition of the room in which they were found by the officers and as to whether or not the door was closed and anyone sitting against it.

On page 259, line 35, in answer to a question concerning the door, John Griffin, member of the New York Police Department, testifies:

> A. On pushing the door, I found one of the men whom I arrested sitting against the door, and I had to push with such force that he went down and there were four men sitting at the table and about four masks on the table, and one of the men who was sitting at the table was sewing cloth around a black-jack. I then placed the five men under arrest.

The officer then proceeded to identify Unger and Karp as two of the four men to whom he had made reference. Under these circumstances, we feel that this question being asked on cross-examination, it was within the discretion of the court to permit it or not. No particular reason or ground was stated for objection to this question, and we cannot conceive how the admission of the question could be considered in any sense a wilful abuse of discretion on the part of the court.

POINT TEN

THE COURT DID NOT COMMIT ERROR IN PERMITTING THE STATE TO ASK OF THE DEFENDANT, KARP, THE FOLLOWING QUESTION: "DID THE OFFICERS HAVE TO PUSH THE DOOR IN?"

This question, too, was asked upon cross-examination (page 220, line 18) but appears to be answered before the objection is noted. No grounds or reasons were stated for the objection and we feel that if the objection had been timely made, it would not have been well taken for the same reasons as set forth in the answer to assignment twenty.

POINT ELEVEN

THE COURT DID NOT COMMIT ERROR IN PERMITTING THE FOLLOWING QUESTION TO BE ASKED BY THE STATE OF THE DEFENDANT, KARP: "YOU ARE KNOWN AS 'SOLLY THE BLADE' ARE YOU NOT?"

As will appear from the record, page 229, line 30, this question was answered in the negative before the objection was interposed. The rule laid down in Clark vs. State, 18 Vroom, 556, and cited with approval in Cunningham vs. State, 61 N. J. L., at page 70, holds,

> "The rule is established that counsel can not take the chance of testimony making in his favor, and if it happens to be adverse, then interpose his objection."

In the objection, no ground was stated but we feel the question would have been competent had the objection been timely made. The court made no ruling. No exception was taken, nor was there any motion made to strike out the answer.

For the foregoing reasons the defendant-in-error maintains that there was no error which prejudiced the defendants in their defense and that the verdict in each case should be affirmed.

Respectfully submitted,
J. VINCENT BARNITT,
Prosecutor of the Pleas and of Counsel for the Defendant-in-Error.