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WRIT OF ERROR.

NEW JERSEY COURT OF ERRORS AND APPEALS.

STATE OF NEW JERSEY, *Defendant-in-Error,* vs. RAYMOND W. SCHUCK, *Plaintiff-in-Error.*	Sur Indictment for Murder. Writ of Error.

STATE OF NEW JERSEY, *ss.*

The State of New Jersey to the Honorable Frank S. Katzenbach, Jr., and John (SEAL) B. Kates, Judges of the Court of Oyer and Terminer of the County of Camden.

Because in the record and proceedings and also in giving judgment upon a certain indictment which was in our said Oyer and Terminer Court before you therein, wherein the State of New Jersey is plaintiff and Raymond W. Schuck is defendant, in a plea of not guilty of murder, manifest error hath intervened to the great damage of the said Raymond W. Schuck, as it is said:

We being willing in this behalf to correct the error in due manner, if any there be, and that speedy justice be done to him, the said Raymond W. Schuck, 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

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things touching the same to our Court of Errors and Appeals in the last resort in all causes, to be holden at the State House in the City of Trenton, on the 10th day of March, together with this writ, that the records and proceedings aforesaid being inspected, we may further cause to be done thereupon for correcting that error what of right and according to the laws and customs of the State of New Jersey ought to be done.

Witness, the Honorable Edwin Robert Walker, Chancellor of the State of New Jersey and presiding Judge of the Court of Errors and Appeals, in the last resort of all causes at Trenton, aforesaid, this twenty-eighth day of February, nineteen hundred and twenty-one.

THOMAS F. MARTIN,
Clerk.

(Seal)

JAMES RUSSELL CARROW,
Attorney for Defendant.

The answer of Frank S. Katzenbach, Jr., and John B. Kates, Esquires, Judges of the Court of Oyer and Terminer, in and for the County of Camden, and State of New Jersey within named:

The record and proceedings of the plaint whereof mention is within made, with all things touching and concerning the same, including the resort of the proceedings had upon the trial of the said defendant, to the Court of Errors and Appeals in the last resort in all causes, within specified, at the day and place within contained, I certify in a certain schedule to this writ annexed, as I am within commanded.

FRANK S. KATZENBACH, JR.,
JOHN B. KATES,
Judges.

JUDGMENT RECORD.

Indictment.

State of New Jersey, Camden County.
Court of Oyer and Terminer, holden before Frank S. Katzenbach, Jr., and John B. Kates, Judges.
September Term, 1920.

THE STATE OF NEW JERSEY
vs.
RAYMOND W. SCHUCK.

Sur Indictment.
Murder.

CHARLES A. WOLVERTON, ESQ.
J. RUSSELL CARROW, ESQ.

CAMDEN COUNTY, to wit:

Be It Remembered, That at a Court of Quarter Sessions, holden at Camden, in and for the County of Camden, on the second Tuesday of September in the year of our Lord one thousand nine hundred and twenty, before Honorable John B. Kates, Judge of the said Court and of the Court of Common Pleas in and for said county, no Justice of the Supreme Court of the State of New Jersey being present in the Court House, and the Grand Jury being desirous

of making presentment of sundry bills of indictment, according to the form of the statute in such case made and provided, by the oath of Harry F. Bagge, Roscoe Bateman, H. Wilbur Bircks, William F. Bolzau, James Corea, Richard A. Connors, Elwood Elliott, John A. Flick, John A. Gorman, William J. Halbeison, Thomas W. Jack, Henry Kobus, Robert MacIntosh, Edgar A. Miller, Jr., John McGown, Martin J. O'Brien, George R. Pelouze, Chester Pancoast, David S. Rhone, Frank C. Sayrs, Christian Schremp, Walter F. Toms, William A. Wilkinson, good and lawful men of the said County of Camden, duly summoned, and then and there sworn, and charged to inquire for the State of New Jersey, in and for the body of the said County of Camden.

It Is Presented, in manner and form following, that is to say:

The bills herewith presented are true bills.

WM. A. WILKINSON,
Foreman.

Filed Nov. 16, 1920.

F. F. PATTERSON, JR.,
County Clerk.

IN THE
COURT OF OYER AND TERMINER
OF CAMDEN COUNTY.

September Term, A. D. 1920.

CAMDEN COUNTY, to wit:

The Grand Inquest of the State of New Jersey and for the body of the County of Camden, upon their respective oath, Present, That Frank J. James and Raymond W. Schuck, late of the City of Camden, in the County of Camden on the fifth day of October in the year of our Lord one thousand nine hundred and twenty at the city aforesaid in the county aforesaid, and within the jurisdiction of this court, with force and arms, in and upon one David S. Paul, in the peace of God and this State then and there being, wilfully, feloniously and of their malice aforethought did make an assault, and him, the said David S. Paul then and there wilfully, feloniously and of their malice aforethought did kill and murder, to the evil example of all others in like case offending, 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.

CHAS. A. WOLVERTON,
Prosecutor of the Pleas.

Camden County Court of Oyer and Terminer.
September Term, 1920.
Indictment for Murder.
The State vs. Frank J. James and Raymond W. Schuck.
Charles A. Wolverton, Prosecutor of the Pleas.
A True Bill, Wm. A. Wilkinson, Foreman.
Filed Nov. 16, 1920, F. F. Patterson, Jr., County Clerk.

Plea.

And Afterwards, to wit, on the twenty-ninth day of November, in the year of our Lord one thousand nine hundred and twenty, at a session of the Court of Oyer and Terminer aforesaid, being as yet the September Term aforesaid, before the Honorable Frank S. Katzenbach, Jr., Justice as aforesaid, and John B. Kates, Judge of the Court of the Common Pleas in and for the said County of Camden, at Camden aforesaid, here cometh the said Frank J. James and Raymond W. Schuck, under custody of Isaiah S. Hatch, sheriff of the County of Camden aforesaid, in whose custody in jail of the County of Camden aforesaid, they have been committed for the cause aforesaid, being brought to the bar and having heard the indictment read and forthwith being commanded of and concerning the premises in the said indictment aforesaid specified and charged upon them how they will acquit themselves thereof, they say they are not guilty thereof and they put themselves upon the country.

And Charles A. Wolverton, Esquire, prosecutor of the pleas for the said County of Camden, who prosecutes for the State of New Jersey in this behalf doth the like.

Thereupon the said Raymond W. Schuck, by his attorney, James Russell Carrow, moved for a severance of the indictment and the Court stated they would hear arguments as to the severance aforesaid, on the first day of December, in the year of our Lord one thousand nine hundred and twenty at eleven o'clock in the forenoon.

Thereupon on the aforesaid first day of December in the year of our Lord one thousand nine hundred

and twenty, the Court, after hearing the arguments of all parties, granted a severance of indictment and fixed the day for the trial of Raymond W. Schuck for the fourth day of January, in the year of our Lord one thousand nine hundred and twenty-one.

Affidavit.

CAMDEN COURT OF OYER AND TERMINER.

STATE vs. RAYMOND W. SCHUCK.	Affidavit.

STATE OF NEW JERSEY, }
COUNTY OF CAMDEN, } *ss.*

RAYMOND W. SCHUCK, being duly sworn according to law on his oath deposes and says:

1. That he is now confined in the county jail of Camden County, having been jointly indicted with Frank J. James for causing the death of David S. Paul.

2. That he is informed and believes that the said Frank J. James has made certain statements and alleged confessions to the prosecutor of the pleas of Camden County, and the detectives in his employ and to Ellis Parker, county detective of Burlington County, New Jersey.

3. Deponent further says that he believes that said alleged confessions of Frank J. James will be offered in evidence and read to the jury by the prosecutor of the pleas at the trial of this defendant. Said alleged confessions are believed by this deponent to contain allegations that this deponent entered into a pre-arranged plot to rob David S. Paul, and that this deponent struck the said David S. Paul several blows upon the head with an iron, thereby participating in the cause of the death of David S. Paul. This deponent denies the truth of said statements and believes that the alleged confessions of Frank J. James contain other allegations which are greatly detrimental to this deponent and which are not true.

4. This deponent believes that if the said Frank J. James and himself are tried jointly on this indictment, that the prosecutor of the pleas on behalf of the State intends to use and will use either the said Frank J. James as a witness or offer his alleged confessions against this deponent, and that the said prosecutor of the pleas on behalf of the State intends to use this deponent as a witness or the alleged confessions of this deponent against said Frank J. James. That this deponent is informed and believes that it will be necessary for him to go on the witness stand in his own behalf and that he is informed by counsel that he will be called as a witness in behalf of defendant, Frank J. James. That this deponent further believes that the said Frank J. James will be called to the witness stand as a witness for this deponent.

5. And this deponent further is informed and believes that the confessions of both defendants contain matters which if read at a joint trial would be

legal as for or against one, but illegal for or against the other defendant, and that a jury would have extreme difficulty in separating the legal from the illegal testimony and applying that which is legal to the proper defendant.

6. This deponent is informed and believes that his defense and the defense of Frank J. James may be of such nature that one jury would have distinct difficulty in not only keeping the defenses separate, but in applying the proper rules of law to each defense.

RAYMOND W. SCHUCK.

Sworn and subscribed to before me this thirtieth day of November, A. D. 1920.

D. B. ROBINSON,
Commissioner of Deeds for New Jersey.

Motion for Continuance and Special Panel.

Thereupon on the aforesaid fourth day of January, in the year of our Lord one thousand nine hundred and twenty-one the said Raymond W. Schuck, by his attorney, James Russell Carrow, moved for a continuance of the trial of the said indictment until the seventh day of February, in the year of our Lord one thousand nine hundred and twenty-one, which motion was granted by the Court.

Thereupon on the said fourth day of January, in the year of our Lord one thousand nine hundred and twenty-one, Raymond W. Schuck, by his attorney, James Russell Carrow, moved for a special panel of struck jurors, which motion was denied by the Court.

Thereupon on the third day of February, in the year of our Lord one thousand nine hundred and twenty-one, the Court ordered the continuance of the trial of the said indictment until the fourteenth day of February, in the year of our Lord, one thousand nine hundred and twenty-one.

Challenge to the Array.

CAMDEN COUNTY COURT OF OYER AND TERMINER.

STATE vs. RAYMOND W. SCHUCK.	On Indictment for Murder. Challenge to the Array.

The defendant, Raymond W. Schuck, challenges the array of jurors summoned to be present for the trial of the above-named defendant for the following reasons:

1. At the time of the selection of the jury list for the December Term, 1920, of court, there were ten thousand women, more or less, in the various municipalities of Camden County who were duly qualified for jury service.

2. The commissioners deliberately and intentionally failed, neglected and refused to select any of the said women for jury duty.

3. The commissioners of juries for the County of Camden did not at least thirty days prior to the commencement of the present December Term of the Circuit Court, make two lists alphabetically arranged of persons liable to jury duty having regard to the just distribution of jury service among those persons qualified therefore in the various wards and municipalities of the said county with their occupations and places of abode and designating their respective municipalities and wards (if any) in municipalities, which list shall be designated respectively "Grand Jury" and "Petit Jury" list. The number of names on the petit jury shall at no time be less than five hundred.

4. That the petit jury list for said term of court drawn from the five hundred names which were selected by the commissioners as aforesaid contained the names of no women.

5. The said selection of the jury list was contrary to the rights of the defendant under the Constitution of the United States and the State of New Jersey and the statute of the said State of New Jersey in such case made and provided.

The defendant therefore asks that the challenge to the array be sustained.

JAMES RUSSELL CARROW,
Attorney for the Defendant.

STATE OF NEW JERSEY, }
COUNTY OF CAMDEN, } *ss.*

JAMES RUSSELL CARROW, being duly sworn according to law on his oath says that he is a resident of the City and County of Camden and State of New Jersey and that he is also a member of the bar of the State of New Jersey. That the names of ten thousand women, more or less, appeared on the registry lists of the various wards, cities, boroughs and townships of the said county for the last general election. That the names of no women appeared on the jury list selected by the jury commissioners for Camden County for the December Term of court.

JAMES RUSSELL CARROW.

Sworn and subscribed before me this 11th day of February, one thousand nine hundred and twenty-one.

FRANK H. HARRIS,
Attorney-at-Law of N. J.

Challenge for Dismissal.

And thereupon on the said fourteenth day of February, in the year of our Lord one thousand nine hundred and twenty-one, an application was made by Raymond W. Schuck, by his attorney, James Russell Carrow, by way of a challenge for the dismissal of the array supported by the application in writing filed with the court, supported by affidavit and after the taking of testimony in relation thereto, the Court thereupon denied the motion.

And thereupon let a jury come before the Justice aforesaid, at Camden aforesaid, in the County of Camden at the December Term of the Court of Oyer and Terminer aforesaid on the fourteenth day of February, in the year of our Lord one thousand nine hundred and twenty-one, twelve good and lawful men, each of whom shall be a citizen of this State and reside within the County of Camden 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 Raymond W. Schuck, to recognize upon their oaths whether the said Raymond W. Schuck, be guilty of murder in the indictment aforesaid specified, or not guilty, because as well the said Charles A. Wolverton, prosecutor of the pleas, for the County of Camden aforesaid, who prosecutes for the State of New Jersey aforesaid, as the said Raymond W. Schuck, have put themselves upon said jury, and the same day is given to the parties aforesaid, at the same place at which time, that is to say, the fourteenth day of February, in the year of our Lord one thousand nine hundred and twenty-one, at the same term of Oyer and Terminer, holden at Camden aforesaid, in the County of Camden, before the said Justice aforesaid, here cometh as well the said Charles A. Wolverton, prosecutor of the pleas aforesaid, who prosecutes as aforesaid, as well as the said Raymond W. Schuck, in the custody of the sheriff of the County of Camden, being brought to the bar here in his proper person by the said sheriff, and the trial of the indictment aforesaid being moved by the said Charles A. Wolverton, prosecutor as aforesaid, and the jurors of the said jury by the sheriff of the county aforesaid for the purpose empanelled and returned, to wit: Jacob Hill, John H.

Sibley, Charles Myers, Benjamin Hoffman, William P. Fowler, George Riggs, Charles H. Fells, Harry App, Nathan Holland, Harry Fifield, William H. Gourley, Joseph Keegan, being called, come, who being chosen, tried and sworn to speak the truth of and concerning the premises and thereupon the trial of the issue commenced and continued before the said Court and jury, from day to day, until the twenty-second day of February, in the year of our Lord one thousand nine hundred and twenty-one, at Camden aforesaid, the jury in the meantime having all that time been kept together and in the care of officers of the said Court, who were selected and duly sworn by the Court for that purpose at which last mentioned day the said issue after a charge from said Court was submitted to the said jury, and the said jury in charge if the officers of the said court duly sworn for the purpose, were taken to a private room to consider on the verdict, and afterwards, that is to say, on the day aforesaid, at Camden, the said jury returned into and before the said Court in charge of the said officers sworn to keep them in charge, and then and there in the presence of the said prosecutor, Charles A. Wolverton, and the said defendant, Raymond W. Schuck, do say that the said Raymond W. Schuck is guilty of murder in the first degree in manner and form as in and by the said indictment as charged against him; and upon being further demanded of them of and concerning the premises each one for himself says he finds the defendant, Raymond W. Schuck, guilty in manner and form as he stands charged, and of murder in the first degree; and thereupon the said Raymond W. Schuck, is committed to the custody of the said sheriff of Camden County and there to remain until the twenty-fifth day of February, 1921, at three o'clock in

the afternoon; and the said Raymond W. Schuck, now, to wit, on the twenty-fifth day of February, 1921, being produced before the said Court at Camden aforesaid in his proper person in the custody of the sheriff of the said county, whereupon all and singular the premises being seen and by the Court here being fully understood, it is considered and adjudged that the said Raymond W. Schuck be forthwith taken by the sheriff of the County of Camden to the State Prison at Trenton, New Jersey, and delivered to the principal keeper of the said State Prison, and there be confined until the week beginning Sunday the tenth day of April next, and during said week within the State Prison enclosure the said Raymond W. Schuck shall be put to death by causing to pass through his body a current of electricity of sufficient intensity to cause death as speedily as possible, and the application of such current shall be continued until the said Raymond W. Schuck is dead.

Judgment entered and signed this twenty-fifth day of February, in the year of our Lord one thousand nine hundred and twenty-one.

FRANK S. KATZENBACH, JR.,
Presiding Judge of the Court of Oyer and Terminer.

Rule Denying Motion for New Trial.

CAMDEN COUNTY COURT OF OYER AND TERMINER.

THE STATE OF NEW JERSEY, vs. RAYMOND W. SCHUCK, *Defendant.*	On Indictment for Murder, etc. Rule Denying Motion for New Trial.

Application for a new trial having been made to this Court on February 25th, 1921, by James Russell Carrow, Esquire, counsel for the above defendant, Raymond W. Schuck, and the Court having read and ordered filed, the affidavit presented in support of said application; and answering affidavits having been filed by Charles A. Wolverton, prosecutor of the pleas of Camden County, and the Court having fixed Friday, March 4th, 1921, at four o'clock in the afternoon for the hearing of said matter, but upon consent of counsel having heard said matter on February 28th, 1921, at four o'clock in the afternoon, at the State House, Trenton, New Jersey, and the Court having considered the matters and things contained in said affidavits and answering affidavits, and having heard and considered the arguments of respective counsel.

It is, on this twenty-eighth day of February, A. D. 1921, Ordered that the said application for a new trial for the said defendant, Raymond W. Schuck, be and the same is hereby denied.

FRANK S. KATZENBACH, JR.,
Justice.

CERTIFICATE.

NEW JERSEY COURT OF ERRORS AND APPEALS.

THE STATE OF NEW JERSEY, *Defendant-in-Error,*	On Indictment and Conviction in Camden County Court of Oyer and Terminer of the Crime of Murder in the First Degree.
vs.	
RAYMOND W. SCHUCK, *Plaintiff-in-Error.*	

This is to certify that application has been made to me for the allowance of a writ of error to be issued out of the New Jersey Supreme Court for review of the judgment of the Camden County Court of Oyer and Terminer of Camden County in this State, convicting the said Raymond W. Schuck of the crime of murder in the first degree, and that I have refused to order a writ of error for the review of said judgment.

EDWIN ROBERT WALKER,
Chancellor.

Dated Trenton, N. J., February 28th, 1921.

ORDER TO STAY JUDGMENT.

CAMDEN COUNTY COURT OF OYER AND TERMINER.

STATE OF NEW JERSEY, *Defendant-in-Error,* vs. RAYMOND W. SCHUCK, *Plaintiff-in-Error.*	Order to Stay Judgment.

A writ of error having been issued in the above-entitled cause, it is on this first day of March, nineteen hundred and twenty-one, ordered that execution of the sentence imposed upon the said Raymond W. Schuck be stayed until the determination of the proceedings on said writ of error, or further order of the Court.

FRANK S. KATZENBACH, JR.,
Justice Supreme Court.

On motion of
JAMES RUSSELL CARROW, ESQ.,
Attorney of Plaintiff-in-Error.

CERTIFICATION.

STATE OF NEW JERSEY, }
COUNTY OF CAMDEN, } *ss.*

I, WILLIAM D. BROWN, clerk of the Court of Oyer and Terminer in and for the State and county aforesaid, Do Hereby Certify that the foregoing is true, full and complete copy of the record and proceedings with all things touching and concerning the same in the trial and conviction of Raymond W. Schuck, of the crime of murder, as the same are now on file in my office.

Witness my hand and the seal of said
(SEAL) Court this seventh day of March, A. D. nineteen hundred and twenty-one.

WM. D. BROWN,
Clerk.

TESTIMONY.

CAMDEN COUNTY COURT OF OYER AND TERMINER.

STATE,
vs.
RAYMOND W. SCHUCK. } On Indictment for Murder.

December Term, 1920.

APPEARANCES:
For the State, THE PROSECUTOR and ASSISTANT PROSECUTORS.
For the Defendant, JAMES RUSSELL CARROW, ESQ.

Before KATZENBACH, *J.*, and a jury.

The Court: Let the defendant be brought in.

(The defendant was then brought into the court room.)

The Court: Mr. Wolverton, are you ready to move the trial of the indictment against Mr. Schuck?

Mr. Wolverton: If the Court please, the State is ready to move the trial of State vs. Raymond W. Schuck. A plea of not guilty has already been entered by the defendant on the 29th day of November last, so that we are now ready to proceed with the trial.

The Court: Is there any reason Mr. Carrow, why this case should not now be tried?

Mr. Carrow: No, sir.

The Court: Very well then, the trial will proceed.

Mr. Carrow: If your Honor please, before we proceed to draw the jurors, I would make a motion on behalf of the defendant to quash the array of jurors for the following reasons, which I have written out and prepared, and there is an affidavit attached to it. They are practically the same reasons and the argument is in substance the same as was used at the time of the James trial, and I might suggest, in order to facilitate matters, that the testimony that was used on the part of the sheriff and the jury commissioner at that trial be incorporated into the testimony taken at this trial, and the arguments also, if that meets with the approval of the Prosecutor.

The Prosecutor: Well, if the Court please, before giving my consent to that, I would like an opportunity to look at the reasons that have been urged, to see whether there is any difference between these and those that were offered in the previous case.

The Court: That opportunity will be afforded you. You now read the reasons, and then I will look over them.

The Prosecutor: If your Honor please, I have examined the reasons that have been urged by counsel for the defendant, and with his assistance, I have noted the difference that may be between these and the others, and consider them immaterial matters, so that the subject-matter of the ground of challenge is practically the same as it was in the previous case of James, where this question was raised, and I am perfectly willing, provided the defendant himself consents, as well as his counsel, that the testimony that was produced at the former trial, that is, the trial of State vs. James, to substantiate the claims that were then made to support this challenge to the array be introduced as evidence in this case, together with the argument of respective counsel, that they be adopted as our arguments in this particular case. This willingness upon my part, however, is entirely upon the basis that the defendant himself consents to this course of procedure.

The Court: Then if the defendant, Mr. Schuck, consents to this course of procedure, the motion to quash will be entered at length upon this record, and there will be embodied in this record the examination, both in chief and the cross-examination, of the sheriff and the jury commissioner who were the witnesses testifying in the case of Mr. James', and, while the arguments of counsel are perhaps not a part of the record, yet if it is the desire of both counsel, and the stenographer puts them in the record, why, of course, there is no objection on the part of the Court. Now, will you explain to Mr. Schuck, Mr. Carrow, just the situation, and let him state whether he consents.

Mr. Carrow: The defendant has signified his consent.

The Court: Yes, Mr. Schuck, your consent then will be entered upon the record.

The Prosecutor: What was the reply?

The Court: Yes. Now, the Court will deny the motion to quash the array.

Mr. Carrow: May I have an exception?

(Exception noted for the defendant.)

(Signed and sealed accordingly.)

FRANK S. KATZENBACH, JR.,
J. (Seal)

JOHN B. KATES,
J. (Seal)

The Court: Yes. The Court is of the opinion and holds that no constitutional right of the defendant or other right of the defendant has been invaded by the omission of women from the panel of jurors. The motion of Mr. Harris and the challenge to the array on the grounds stated is overruled and an exception will be accorded to the defendant and entered on the record. Now, we will proceed to the drawing of the jury.

"WILLIAM PENN CORSON, sworn.

"By Mr. Harris:

"Q. Mr. Corson, were you formerly the sheriff of this county?

"A. I was.

"Q. When did you go out of office?

"A. The 9th day of November, 1920.

"Q. Did you draw the names of the 500 men required to be drawn by statute from which the present panel is drawn?

"A. No, I only supplied 250 of those names on that list.

"Q. Well, you together with the other commissioner did

"A. I did.

"Q. Did you make a list?

"A. I did.

"Q. Both of you together?

"A. Yes, we both made a list.

"Q. And did you file them, submit them to the Justice of the Supreme Court first?

"A. We did.

"Q. And filed them with the county clerk?

"A. We did.

"Q. On that list I see there are no women—how did that come about?

"A. No particular reason for it.

"Q. How many women were eligible to jury duty in the County of Camden?

"A. I suppose twenty to twenty-five thousand.

"Q. Why didn't you put them on?

"A. Well, for the simple reason I didn't put all the other 75,000 registered names on there.

"Q. Well, did you put any women in?
"A. No.
"Q. Was that influenced by any feeling on your part that they could not properly be taken care of?
"A. Well, that was my thought, that they could not properly be taken care of here at this court house.
"Q. And you purposely left them off?
"A. Well, I didn't give it any thought, Mr. Harris; I didn't go into the idea that I was discriminating against anything or anybody or——
"Q. Your best intention was to take care of them?
"A. It was my intention to take care of the ladies, certainly.

"Cross-examination.

"By Mr. Wolverton:

"Q. Was there any malice in your actions as far as this defendant was concerned?
"A. No thought of it whatever, or no other.

"Mr. Harris: If your Honor please, we don't charge any malice or any attempted——

"The Court: Well, the question has been asked and answered.

"Q. Were they left off with any thought of the trial of this defendant?
"A. No, sir, not any.
"Q. Do I understand that the list was selected out of the great body of citizens of our county?
"A. It was.

"Q. Did you in making that selection have in mind any feeling of any kind whatsoever against this defendant?

"A. Positively none.

"Q. Were you biased against the services of women or any other class of citizens as a class?

"A. No, sir, race, creed or sex had no thought in my mind when I made that jury list.

"Q. In the selection of the names did you use your best judgment?

"A. I did."

"JAMES F. LENNON, sworn.

"By Mr. Harris:

"Q. Are you a jury commissioner of the County of Camden?

"A. Yes, sir.

"Q. Together with Sheriff Corson?

"A. Yes.

"Q. Did you select and arrange the list of the 500 names from which the present panel of jurors was drawn?

"A. I did.

"Q. Were you aware of the fact that there were quite a few women in this county who had become voters and voted at that time?

"A. I am aware of the fact that they were clothed with the franchise, and I presumed that carried with it the right of jury service.

"Q. And you were aware of that fact, that they voted a good many of them?

"A. I am aware that they voted?

"Q. Yes.

"A. Oh, yes, sir, I am quite well aware of the fact that they voted.

"Q. Why didn't you select some of those women for jury service?

"A. I had no particular reason for not choosing them, any more than any other class or race. I made up the list without any regard to race, creed, color, condition or sex.

"Q. Well, you didn't put any of the female sex on it?

"A. I didn't put them on and I didn't keep them off.

"Q. Well, why didn't you put some of them on?

"A. I had no special reason for putting them on, because I have never had any certain knowledge as to just what our status was in the matter, have never received any instructions from anybody as to what we should or should not do.

"Q. You knew there were some 15,000 or more women who had been registered and voted as citizens of the County of Camden?

"A. Yes, sir.

"Q. What proportion was that of the entire citizenship of the county?

"A. What, of the eligible list?

"Q. Yes.

"A. Probably nearly half, I presume.

"Q. And out of the one-half who were eligible, you did not summon any of them?

"A. Didn't select any, no, sir.

"Q. And there were none put in the wheel—none on the list?

"A. None put on the list, no, sir.

"Cross-examination.

"By Mr. Wolverton:

"Q. Mr. Lennon, in exercising your judgment in the selection of the jury list, was the fact that no women appear upon it due in any way to malice upon your part either toward the grand jurors or toward this defendant?

"A. Absolutely no, quite the reverse. I would be delighted to put them on.

"Q. Be what?

"A. I would be delighted to put them on if I received such instructions or if it is mandatory to put them on.

"Q. In your judgment is it mandatory to select any particular sex, creed, or color in the selection of jurors?

"Mr. Harris: I object; that is a question of law, whether it is mandatory to select any color, creed or sex.

"The Court: Read the question, Mr. Stenographer.

(Question repeated.)

"The Court: That question will be overruled.

"The Prosecutor: If your Honor please, I had this in mind, that the selection of a juror is so completely a question of judgment and the absence of a particular class here is attacked, and it seems to me that it would be just as proper for this witness, if

such is the case, to have said that in his judgment it was not mandatory that they be selected as it is to justify his judgment by saying that it was not the result of malice, or prejudice or bias.

"The Court: I think you can bring that out in another way, Mr. Wolverton. As the question was framed perhaps it required the witness to answer a matter of law, his conclusion of that.

"Q. In the exercise of your judgment, did you use the best judgment that you had in the matter of the selection of the jurors?

"A. Yes, sir.

"Q. Was that judgment biased in any way or prejudiced against the use of women in the trial of this defendant?

"A. Absolutely no.

"Q. Were these witnesses by design or otherwise left off—these jurors left off in order that this case of this defendant, James, would be affected thereby?

"A. No, sir.

"Q. Were you actuated by any motives other than the best?

"A. None whatever.

"By Mr. Harris:

"Q. You said to Mr. Wolverton that you used your best judgment in leaving off these women?

"A. I did not, sir.

"Q. What?

"A. I did not, sir; I didn't make any such reply at all.

"Q. That is what I understood.

"A. I made the reply that I used my best judgment in the selection of those that I put on.

"Q. Now, in your best judgment was it proper to leave off the women?

"A. No, sir, my judgment only applied to those whom I selected; in that I used my best judgment.

"Q. Did you use your best judgment in leaving off the women?

"A. I didn't leave them off; I merely didn't put them on.

"Q. What is the distinction?

"A. The distinction is just this, that to not put them on, or rather to keep them off would imply an objection, something I never entertained and don't entertain now. I never gave it a serious thought as to whether they should go on or should not go on; I merely selected the jury without any regard to race, creed, condition, color or sex.

"Q. Now, when you say, 'or sex,' didn't you leave the women off?

"A. They were left off; I didn't put them on."

SECOND DAY.
February, 15, 1921.

(Trial of the cause resumed at 9.30 o'clock A. M., pursuant to adjournment, in the presence of the defendant and counsel for the respective parties.)

THE CASE FOR THE STATE.

The Prosecutor: If your Honor please, with the consent of counsel for the defense, I desire to offer in evidence without the formal proof of the photographer who actually took the pictures, six pictures showing scenes and localities connected with the testimony in this case, and with your Honor's permission I would like them marked S1, 2, 3, 4, 5 and 6.

The Court: There being no objection upon the part of counsel for the defendant the photographs will be received in evidence and marked S1, S2, S3, S4, S5 and S6.

The Prosecutor: Shall I give a description of the pictures at this time—would you prefer that to be done?

The Court: I presume there is no objection to that, that is showing what S1 refers to.

Mr. Carrow: If your Honor please, I think it might as well be done now as any other time, while they are being offered.

The Court: Yes, very well then, Mr. Wolverton, if you will describe each of these exhibits.

The Prosecutor: Exhibit S1 is a photograph taken at the northeast corner of Delaware Avenue and Market, showing the street and entrance to the ferry, and also the shed covering the sidewalk running from Delaware Avenue to the ferry, and also a portion of the locality back of the shed. Exhibit S2 is a photograph taken from the entrance of that locality back of the sheds and showing the ground in that vicinity. Exhibit S3 is a picture taken from Marlton Pike looking toward Forest Hill Park in the direction of Baird Avenue Bridge, showing the locality. Exhibit S4 is a view of the road leading toward Sooy's Corner at Irick's Causeway. Exhibit S5 is a view taken from the same road looking into the underbrush where the grave was dug. Exhibit S6 is a view of the grave.

Edwin P. Norcross, sworn.

By the Prosecutor:

Q. Mr. Norcross, where do you live?
A. Camden, New Jersey.
Q. What is your address?
A. 572 Benson Street.
Q. Where are you employed?
A. At the Broadway Trust Company.
Q. In what capacity?
A. As secretary and treasurer.
Q. Were you acquainted with David S. Paul?
A. Yes, sir.

Q. How long have you known him?
A. About four years.
Q. Where was he employed on October 5th?
A. At the Broadway Trust.
Q. In what capacity?
A. As runner and messenger.
Q. Will you describe his duties which have been spoken of by you as runner or messenger?
A. His duties consisted of listing checks deposited with us on other banks and presenting the same checks to banks for collection and payment. He also took out of town checks to the First National, Camden, and Girard National, Philadelphia, usually carrying money and securities with him.
Q. Did you see David Paul on October 5th?
A. Yes, sir.
Q. What was the last time during that day that you saw him?
A. About 1.30.
Q. And under what circumstances did you see him at that time?
A. He was leaving the bank on his way to the First National of Camden and Girard of Philadelphia.
Q. For what purpose?
A. He had checks for First National, checks for Girard National, and also money for Girard.
Q. Did you have any conversation with him when he left the bank?
A. No, sir.
Q. Do you know what the custom of Paul was as to returning to the Broadway Trust Company after business of that character?
A. He usually—always returned directly.
Q. Did he return that afternoon?
A. No, sir.

Q. What time did he report in the morning?

A. 7.30.

Q. Did he report at 7.30 on the morning of October 6th?

A. No, sir, he did not.

Q. Did he report at all that morning?

A. No, he wasn't there.

Q. When he did not report what did you do?

A. I immediately called the Girard National Bank, Philadelphia, and inquired the amount of our deposit for the previous day, and was told that he had not been there on Tuesday afternoon, the 5th.

Q. As a result of that information, what did you do?

A. I reported the same to Mr. Draper.

Q. And who is Mr. Draper?

A. Mr. Draper is the president of the Broadway Trust Company.

Q. After it was reported to Mr. Draper what was done?

A. We immediately called in some of the directors and took it up with the authorities, the disappearance.

Q. I show you a slip headed, "Broadway Trust Company," marked Exhibit S7 for identification, and I ask you, what is that slip?

A. This is a handwritten list of the checks that Mr. Paul was carrying with him for Girard National Bank.

Q. On what day?

A. On October 5th.

Mr. Carrow: Now, just a moment, pardon me just a moment. If your Honor please, I think the witness is going a little too fast. He has not identified that slip as being a slip in the possession of Mr. Paul at all.

The Court: Well, the question has been answered, Mr. Carrow, and of course I presume that will be developed by the Prosecutor.

The Prosecutor: Yes, sir, no question about that.

Q. Whose handwriting is that slip in?
A. Mr. Paul's.
Q. Can you describe to us in detail just what that slip was for, the purpose for which it would be made out?
A. Yes, this is a list of checks for deposit to our credit at Girard National Bank, showing where the checks were payable and the amounts of those checks.
Q. What is the total?
A. The total is $30,361.57.
Q. You mean $33,000.00?
A. $30,361.57.
Q. Did you see that slip again? Did you see that slip at any time after October 5th?
A. Yes.
Q. When?
A. It was given to me Monday, October 18th.
Q. Under what circumstances?
A. It was given to me with the checks, enclosed with the list.
Q. What did you do when the list and checks were presented to you?
A. I took the checks and looked them back with the list to see if they were all there.
Q. Did you compare them personally?
A. Sir?
Q. Did you compare the checks personally with that slip?
A. I did.

Q. And were they all there?

A. They were all there.

Q. How did those checks and that slip come into your possession on October 18th?

A. They were given to me by Mr. Draper.

Q. President of the bank?

A. President of the bank.

Q. I show you a key which is marked Exhibit S8 for identification, and ask what is that key, and to whom did it belong?

A. This is a key to a locker at the bank that belonged to Mr. Paul.

The Court: Will you speak just a little louder, Mr. Norcross? I am afraid some of the jurors cannot hear you.

The Witness: This is a key to a locker which belonged to Mr. Paul at the bank.

Cross-examination.

By Mr. Carrow:

Q. Mr. Norcross, how do you know that Mr. Paul made out this list?

A. It is in his handwriting.

Q. Are you familiar with his handwriting?

A. Yes, sir, I am.

Q. How long had be been employed by the bank?

A. About four years.

Q. And now you say this list totals up to $30,361.57?

A. Yes, sir.

Q. Did you add it up?

A. I listed the checks when they were given back to me.

Q. Well, the total, that is, of this list, is that correct?

A. It is, yes, sir.

Q. Now, how was that made up, all in checks, that sum?

A. This list, yes, it is all checks.

Q. All checks, no cash included in this?

A. No cash included in that letter, no, sir.

Q. How do you know that this is Mr. Paul's key, Mr. Norcross?

A. I gave it to him at the time we went in the building.

Q. Is there anything unusual about the key that leads you to identify it now?

A. Yes, sir, it has number two on it.

Q. Have all the keys—do the various employees of the bank have a key to a locker?

A. Yes.

Q. And each one given a specific key with different numbers on them?

A. Each one bears a number.

Q. Now, how much money would Mr. Paul carry with him on the various days from the bank to other banks in the city—would the sum vary from day to day?

A. The sum varied on various days, yes.

Q. Can you give us any idea what the least sum he would carry over would be?

A. The least sum would probably be around $2,000.

Q. Never any less than $2,000?

A. No, sir.

Q. Now, what is the highest sum he would carry?

A. Not to exceed $50,000.00.

Q. He never carried more than that?

A. He never carried more than $50,000.00.

Q. Did he know before he was given the packages and given the slips how much money he was to carry each day?

A. I did not deliver the money to him personally.

Q. Well, I am asking you as an official of the bank, would he know it?

A. No, sir.

Q. So that prior to his being given the money and leaving the bank, he would not know how much money or how much checks or how many securities he was going to carry on that particular day, would he?

A. He would know how many checks he had, but he would not know the amount of the securities or money.

Q. Now, you say it was his custom to return to the bank after making his deposits?

A. It was, yes, sir.

Q. Did he follow that custom religiously?

A. He did.

Q. What time did he usually return?

A. It depended on just where he had to go in Philadelphia, anywhere between three and four-thirty.

Q. What time do you usually leave the bank?

A. Most any time between half past four and six.

Q. Were you always there when he came in?

A. Not always, no, sir.

Q. Were you ever there—did he ever come in when you were not there?

A. He did.

Q. How do you know that?

A. From the reports of others.

Q. I see; now, are you sure that your testimony that it was his custom to return to the bank every day is not due to the reports of others? In other

words, I want to know, Mr. Norcross, do you know it of your own knowledge—did you see him return each day?

A. When I was there I did, always.

Q. How often were you away from the bank?

A. Very seldom.

Q. So that most of the time he came back after he delivered this money?

A. Yes.

Q. And on this particular day he had in checks—you say this list does not deal with money at all?

A. No, that is only checks.

Q. Now, were all those checks as checked up recovered?

A. Yes, sir, they were.

FREDERICK L. MICHENER, sworn.

Mr. Carrow: May I have Mr. Norcross recalled a moment? There are a question or two I forgot to ask him.

The Court: Yes.

EDWIN C. NORCROSS, recalled.

Cross-examination.

By Mr. Carrow:

Q. Were you present in the bank on Tuesday, October 5th, when Mr. Paul left?

A. I was.

Q. Did you see him go?
A. I did.
Q. What time did he leave?
A. About 1.30.
Q. Did he have anything with him?
A. Yes, sir.
Q. What?
A. A package.
Q. What kind of a package?
A. Package done up in brown paper.
Q. How large?
A. Roughly, about 18 by 6 by 6, I would say.
Q. 6 by 6?
A. Yes.
Q. And 18 inches long?
A. Yes.
Q. Was that secured with a string or anything like that?
A. Yes, it was tied up with twine.
Q. Do you know what the package contained?
A. Contained money.
Q. Well, you didn't see him make it up?
A. No, I did not.

FREDERICK L. MICHENER, recalled.

By the Prosecutor:

Q. Where do you live?
A. 309 Park Avenue, Collingswood, New Jersey.
Q. Where are you employed?
A. Broadway Trust Company.
Q. In what capacity?
A. Paying teller.

Q. And as paying teller, what particular duties do you have?

A. Cashing checks, making change, delivering money to different people, taking charge of most of the money in the bank.

Q. Do you know David Paul?

A. I did, yes.

Q. Where was he employed on October 5th?

A. As messenger for the Broadway Trust Company.

Q. Did you see him on October 5th?

A. I did.

Q. Did his duties as messenger or runner for the bank bring him in contact with you in your capacity as paying teller?

A. It did, yes, sir.

Q. In what way?

A. By giving him money to deposit to the credit of the bank at Girard National Bank, Philadelphia.

Q. On October 5th last year, did you give him any money to deposit at the Girard National Bank in Philadelphia?

A. I did, yes, sir.

Q. How much did you give him?

A. $35,000.

Q. How was that made up?

A. There was $30,000 in twenties and $5,000 in fives, wrapped up in a bundle.

Q. When did you give it to him?

A. About half past twelve.

Q. Did you keep any record of the amount that you gave him?

A. I made an entry in the day book or settlement book.

Q. Have you that book with you?

A. I have.

Q. What is the title of the book?
A. Day book or paying teller's settlement book.
Q. Is that the book which you have there with you at the witness stand?
A. Yes sir, it is.

The Prosecutor: I ask it be marked Exhibit S9 for identification.

(Book marked Exhbit S9 for identification.)

The Prosecutor: Book entitled, "Paying Teller's Settlement, No. 1, Broadway Trust Company."

Q. On what page of Exhibit S9 is the entry to which you have referred?
A. Page 27.

Mr. Carrow: Did I understand the witness to say that he made those entries?

The Prosecutor: I understood so.

The Court: Yes.

Q. Are those entries in your handwriting?
A. They are.
Q. What does the entry show as to the amount of money that you delivered to David Paul, on October 5th?
A. $35,000.

The Prosecutor: Mr. Carrow, it is our intention to offer this exhibit in evidence, but as it is a book that is in daily use at the bank, I have asked Mr. Michener to make a copy of that particular page,

No. 27, and if you have no objection, we will have that substituted as an exhibit so that the book may go back to the bank for use.

Mr. Carrow: Yes, if I may see it.

The Prosecutor: With the agreement of counsel for the defendant, if the Court please may we have this copy of the book likewise marked Exhibit S9?

The Court: The copy of the page 27 will be marked S9, there being no objection on the part of counsel for the defendant, and that will be substituted for the book, Mr. Carrow.

(Copy of page 27 marked Exhibit S9.)

Q. How was the money wrapped, in what manner?

A. The money was wrapped with a $500 strap around $500 in twenties, and tied in $10,000 lots, that is, the twenties. The fives were done up in $250 straps and tied with a string, five thousand in a bundle.

Q. Did you put those straps on yourself?

A. No, they were done by other clerks in the bank. I just tied the other bundles together.

Mr. Carrow: I object to that testimony.

The Court: Unless the witness knows, of course, he cannot testify.

(Question and answer repeated.)

The Court: The witness, of course, can tell what the straps were, and what figures the straps had, but, of course, if he did not count the money he cannot state.

Q. Will you describe what the straps around the money had on them so far as amounts were concerned or other marks of identification?

A. Why, they are printed on the front of the straps, $500 in twenties, and $250 on the fives. Straps come printed all ready with glue and you just strap them around.

Q. Were they in that condition when you delivered them to Paul?

A. They were, yes, sir.

Cross-examination.

By Mr. Carrow:

Q. Did you count the money?

A. I counted the bundles, but not each individual package of five hundred I didn't count. I just counted the bundles.

Q. You took your total amount, then, from the number that was on the outside, on the wrappers?

A. Each bundle, yes.

Q. Each package?

A. Yes.

Q. Then you don't know of your own knowledge whether there was thirty some thousand dollars in cash there, do you?

A. No, I couldn't say positive. The only thing is I know the bundles were there, and they are supposed to have——

Q. You went by the amounts on the straps?

A. That is the idea.

Q. Now, Mr. Michener, you say this entry is in your own handwriting?

A. It is, yes, sir.

Q. And it shows that $35,000 in cash was given to somebody on October 5th, 1920, doesn't it?

A. Yes, sir.

Q. Where do you get that information from?

A. Why, I make the entry myself.

Q. Where do you get your information as to the amount that you put in these books?

A. From a deposit slip that I make up to be deposited in Girard.

Q. And you make that deposit slip up from the wrappers around the bundles of money?

A. Yes.

Q. So that you really don't know whether it is correct or not, do you, of your own personal knowledge?

A. Well, not unless someone slipped a twenty or something——

Q. You wouldn't know——

The Prosecutor: Let him answer the question.

The Witness: Not unless someone out of the ordinary might slip something out of one of those bundles. There are chances, yes.

Q. And you wouldn't know that of your own personal knowledge?

A. No, sir.

Q. Do you make these sheets up every day?

A. Every day we have money to send over in town. That doesn't occur every day.

Q. That doesn't occur every day? Will you tell the Court and gentlemen of the jury how much money was given to David S. Paul on October 4th, for delivery to banks, either here in Camden or over in town?

A. $25,100.

Q. On October 4th?

A. Yes, sir.

Q. On October 3rd?
A. That was Sunday.
Q. October 2nd?
A. $4,350.
Q. October 1st?
A. $4,600.
Q. The day before that?
A. $3,550.
Q. The day before that?
A. $15,950.
Q. And the day before that?
A. $36,250.
Q. And the day before that?

The Prosecutor: What day was that $36,000 on?

The Witness: Tuesday, September 28th.

Q. The 27th?
A. $26,600.
Q. So that the amounts that were given Mr. Paul varied from day to day?
A. They did.
Q. And was the cash always given him by you?
A. Yes, sir.
Q. He would get the cash from you?
A. From me personally, yes, sir.
Q. When would he first know whether or not he had any cash to deliver to the various banks? What time of the day?
A. About noontime.
Q. Not before noon?
A. No, sir.
Q. And from whom would he get that information?
A. From me personally.

Q. And he wouldn't get that information from you before he called at your window or wherever he saw you, to get the cash, would he?

A. No, he wouldn't get it until he saw me.

Re-direct examination.

By the Prosecutor:

Q. Mr. Michener, in answer to Mr. Carrow's questions you gave the amounts for several days, but without giving the days of the week or the dates, and I noticed that there was a difference in amounts. When were the larger amounts which you refer to delivered to Paul? On what days of the week?

A. Usually Monday and Tuesday.

Q. Mondays and Tuesdays, then, were usually the large amounts?

A. Yes, sir.

Q. And the other days in the week were the smaller amounts?

A. Yes, sir.

By Mr. Carrow:

Q. What amount did you say Mr. Paul had on October 4th, given him?

A. $25,100.

Q. And October 2nd?

A. $4350.

Q. And Friday, October 1st?

A. $4600.

Q. And the Tuesday preceding?

A. Tuesday, September 28th?

Q. Yes.

A. $36,250.

Q. And that Monday?
A. $26,600.

The Prosecutor: I offer this book in evidence.

The Court: You offer the sheet?

The Prosecutor: Yes.

The Court: It will be received in evidence.

(Sheet marked Exhibit S9.)

CHARLES R. ANDERSON, sworn.

By the Prosecutor:

Q. Mr. Anderson, where do you live?
A. 533 North 7th Street, Camden.
Q. And where are you employed?
A. Broadway Trust Company.
Q. In what capacity?
A. Time teller.
Q. How long have you been employed there?
A. Four years.
Q. Do you know David Paul?
A. I knew him as an employee at the bank.
Q. How long did you know him?
A. Four years.
Q. What position did he hold?
A. Bank runner and messenger.
Q. Will you describe your duties in the position that you have?
A. My duties are to take deposits and pay checks on accounts that are subject to time, that is, give no-

tice of withdrawal. Pay interest at three per cent. on such accounts, and I do all the necessary details connected.

Q. Did the duties of David Paul as messenger or runner bring him into contact with you on October 5th, last?

A. Yes. I send my money direct to Girard National instead of charging it over to the other tellers, and on October 5th I sent money along with David Paul.

Q. How much did you give to David Paul on October 5th, for delivery in Philadelphia?

A. $5,000.

Q. Do you know how that amount was made up, in what demoninations?

A. Yes, sir. It was made up in twenties, tens, fives, one and twos.

Q. Was there anything distinctive about that money that made it subject to identification?

A. Yes, sir, it was old money. Some of them was torn, mutilated.

Q. Do you keep a record of the amount that is turned over to Mr. Paul?

A. Yes, sir, I enter it in my settlement book for the day.

Q. Is that the settlement book which you have with you on the witness stand?

A. Yes, sir.

The Prosecutor: The witness refers to book entitled, "Time Teller's Settlement, No. 1 Broadway Trust Company," which I ask to be marked Exhibit S10 for identification.

(Book marked Exhibit S10 for identification.)

Q. On what page of this Exhibit S10, which is your time teller's book, is the record of the amount that you gave to David Paul on October 5th?

A. No. 27.

Q. And how much does it show that you gave to him?

A. $5,000.

Q. I show you a sheet similar to page number 27, and ask if that is a duplicate of the original book?

A. Yes, that is the duplicate I made.

The Prosecutor: If there is no objection, Mr. Carrow, we will adopt this same procedure in this matter as we did in the preceding one. I have a copy for you.

Mr. Carrow: Yes.

The Prosecutor: I ask that the other copy be barked Exhibit S10 for identification.

The Court: There being no objection, the substitution will be made and the copy marked Exhibit S10.

(Copy marked Exhibit S10 for identification.)

Q. Now, I show you a package of money, which I ask to be marked Exhibit S11 for identification—

(Package marked Exhibit S11 for identification.)

Q. —— and ask if there is anything about that package of money by which you could identify it as being money similar to that you gave David Paul?

A. Yes, sir. There is several that had been torn in half that I had pasted together, and I used a certain kind of paper that I used for pasting those notes, and the paper on these notes is similar—on some of those notes is similar to that which I used.

Q. Have you counted the money yourself in that package?

A. Yes, sir.

Q. How much is there in there?

A. $4600.

Q. When did that package of money come to your attention after October 5th?

A. The last trial, the trial of Frank James.

Q. What time did you deliver the money to David Paul on October 5th?

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A. At 1.15 in the afternoon.

Q. Was there anything peculiar in the giving of the money to him at that time to impress the fact upon your mind?

A. Well, he was wrapping up the money of the paying teller, and he seemed a little bit sore because of the fact that I brought mine late, and he took it and placed it right on top of the other money that he received from the paying teller.

Q. Did you see him wrap the money up?

A. I didn't stay to finish wrapping it, but I saw him put it on the top and pull the paper around it.

Q. What kind of paper was he wrapping it in?

A. Brown paper.

Q. Did you see Paul again that afternoon?

A. I did not.

Q. Have you seen him since?

A. I have not.

Cross-examination.

By Mr. Carrow:

Q. Did Mr. Paul say anything to you while he was wrapping up his money?

A. He did not.

Q. Did you say anything to him?

A. I just said, "Here is the deposit for Girard."

Q. And what did he say?

A. He didn't answer me, just took it out of my hand.

Q. Was there anything peculiar about his manner that was noticeable to you?

A. Only that I imagined it was on account of being late, because he seemed real sore about wanting to get out early.

Q. How do you know he was sore?

A. Well, that is usually the way he did when he wants to get away quick.

Q. Well, did he say anything to indicate it?

A. No, you could tell by the facial expression of the man.

Q. His facial expression at that time was such that led you to believe that he was angry?

A. Yes, in other words, he would have answered me, too, I think if——

Q. I see, and what did you say to him that wanted an answer, that demanded an answer?

A. I just said, "Here is the deposit for Girard." I thought maybe he would acknowledge it, but being as he didn't——

Q. Ordinarily would he have acknowledged it?

A. Yes, he would.

Q. Did you tell him how much was in the deposit?

A. I did not.

Q. He has to sign a slip for it, doesn't he?
A. He does not.
Q. Who is responsible for that money?
A. I imagine the bank is.
Q. Did you know how much was in it?
A. Yes.
Q. How did you know?
A. I counted it.
Q. You counted it?
A. Yes.
Q. Did you wrap it up?
A. I did.
Q. You did not tell him how much it was?
A. No, I did not.
Q. Did you give him anything so he would know how much it was?
A. There was a deposit slip wrapped up with the rope around it, with the cord around it.
Q. Did he count the money?
A. He did not.
Q. Does he sign for the money?
A. He does not.
Q. I notice on this slip you have made up her a balance, $6,953. 58. Does that mean the money that you gave Paul?
A. No, $5,000; it says, "Girard National notes," is the one I gave him.
Q. Well, how about that $1948.00 on the back, who did you give that to?
A. They are checks on time.
Q. But did you give him those checks, too?
A. No, they are checks which are charged against their own account.
Q. Now, you say that is the package of money you gave him?
A. Yes.

Q. You are absolutely sure that that is the money that you delivered to Paul?

A. Positively, yes.

Q. Have you ever seen money that looked like it before?

A Yes, sure.

Q. Then how do you know that is the money?

A. Oh, by the denominations and the amount and their character.

Q. Did you ever see $20.00 bills before?

A. Yes.

Q. Is there anything different between one of these $20.00 bills and any other $20.00 bill?

A. No, but what my real means of identification is, that in between them is notes that has been torn and they are pasted on with paper that I use, and I am the only one in the bank uses it.

Q. Is your bank the only bank that uses that kind of paper?

A. No, I don't imagine it is.

Q. Plenty of other banks use the same kind of paper?

A. Not usually, I haven't seen it.

Q. Your only means of identifying that money then is by reason of the fact that one or two of those bills—where are they anyhow, on the inside of the package?

A. Well, they are all in between there; they are different places.

Q. How long has it been since you have gone over that package?

A. Since the first day of the trial of Frank James.

Q. That was December 14th or 15th?

A. I imagine that was the date; I don't just recall, the date.

Q. You haven't seen it since?

A. I haven't seen it since.

Q. Before that time, before the first day of the trial, when had you gone over it?

A. They didn't have me go over it before.

Q. So you have only seen that package of money once since the time you say it left your hands and went in the possession of David Paul, is that true?

A. Yes, that is right.

Q. And yet you positively, without the shadow of a doubt, identify that money as the money that you gave David Paul?

A. I identify those notes that is in there with this paper on it.

Q. Can you answer my question yes or no?

A. Yes, I will say yes.

Q. Now, how did he wrap that money up?

A. He didn't wrap it; I did.

Q. Did you put anything around it to indicate how much was there?

A. I put a round cord—these were in different denominations, would have different straps on them.

Q. I see, then you wrapped the different bills?

A. I wrapped it all in one bundle with a cord around it and put a deposit slip in it.

Q. And put a slip on it to show how much was there?

A. To show how much was there, and then marked across the face of the slip what character of notes it was.

Q. Did you see Mr. Paul wrap it up?

A. I didn't see him tie the string, but I saw him pull the paper around it.

Q. What kind of paper was used?

A. Brown paper.

Q. Is that customary?

A. Yes, it was paper that they had at the bank, got a roll.

Q. And he usually did that when he had money?

A Yes, he usually did that.

Q. Now, did the amounts of money that you would give Mr. Paul on various days for deposit vary?

A. Yes, it would.

Q. And have you your records, there to show?

A. Yes; I don't send mine as often as the paying teller; I just usually get it around once or twice a week, maybe.

Q. Any particular day?

A. No particular day for me, no.

Q. So that it is just as liable to come on Monday or Wednesday or Thursday, as it is on Tuesday or Friday or Saturday, isn't it?

A. Yes

Q. Now, when would Mr. Paul know from you how much money you were to give him?

A. He wouldn't know.

Q. What?

A. He wouldn't know.

Q. He wouldn't know until he came there and got it?

A. No.

Q. You wouldn't know yourself, would you, until after you had made the deposit slips?

A. Not until after I had made the deposit slips.

Q. How long had you known Mr. Paul?

A. For the four years that he was at the bank.

Q. What was his appearance?

A. Well, he was sort of an elderly gent with a mustache, and grey—sort of greyish hair.

Q. How tall a man was he?

A. I imagine about five feet eight.

Q. How heavy?

A. About 150 pounds.

Q. Active?

A. He was pretty active, yes.

Q. What time was it your custom to leave the bank?

A. Oh, I vary, sometimes 3.30, on up to five o'clock.

Q. Now, would his duties require him to report to you the fact that he had made your deposit with the other banks?

A. No, it would not.

Q. It would not?

A. No.

Q. So that after he got possession of the money you gave him you had nothing further to do with that or he with you?

A. I checked up the acknowledgment the next morning.

Q. He would give it to you when?

A. He wouldn't give it to me; I would get it from our correspondence.

Q. Oh, I see; did Mr. Paul usually come back to the bank in the afternoon after——

A. As far as I know he did; I didn't always see him.

Q. I see, you didn't see him as often as you did see him, is that true?

A. That is right.

The Prosecutor: If your Honor please, with the consent of counsel for the defendant, we offer Exhibit S11—I think it is marked—in the place of the book, which is a copy of the sheet to which he has referred in this testimony.

The Court: Yes, a copy of the sheet of the book will be received instead of the book itself.

JOHN W. ROCKAFELLOW, sworn.

By the Prosecutor:

Q. Where do you live?
A. Palmyra, New Jersey.
Q. Where are you employed?
A. First National Bank, Camden.
Q. In what capacity?
A. Bookkeeper.
Q. Did you know David Paul?
A. I did.
Q. When was the last time you saw him?
A. October 5th.
Q. About what time?
A. Between 1.30 and 2 o'clock in the afternoon.
Q. Where was he employed?
A. Broadway Trust.
Q. Did his duties at the Broadway Trust bring him in contact with you in your position at the First National Bank?
A. Yes, sir.
Q. In what way?
A. He usually brought in an envelope containing checks each afternoon, left with us for collection.
Q. For what purpose did he come to the bank on October 5th?
A. For that purpose.
Q. How long was he in the bank?
A. About a minute.
Q. Did he leave anything with you?
A. An envelope containing checks.
Q. Where did he go?
A. He went out the door; I don't know where he went after that.
Q. Have you seen him since?
A. No, sir.

Cross-examination.

By Mr. Carrow:

Q. Where is your position in the bank in relation to the door of the bank?
A. About three or four paces from the door.
Q. Directly in front of the door?
A. No, to the side, to the right.
Q. When did you first notice David Paul come in?
A. When he put the envelope in the window.
Q. You did not notice him coming in the door of the bank?
A. No, sir.
Q. Did he say anything to you?
A. He did not.
Q. Did you say anything to him?
A. I did not.
Q. Just handed you the envelope?
A. That is all.
Q. Then what did he do?
A. Turned around and went out
Q. Did you notice him have anything with him?
A. Only that envelope he gave me.
Q. Did he have anything else with him?
A. Not to my knowledge.
Q. Did you see him?
A. I saw David Paul, yes.
Q. Could he have had anything with him and you not know it?
A. If he had it in his clothes.
Q. Did he have anything in his hands?
A. Not to my knowledge, no, except the envelope that he gave me.
Q. That is all?
A. That is all I know.

Q. And he handed that in to you?
A. Yes.
Q. Nothing in his other hand?
A. Not to my knowledge.
Q. Well, if there had been, you would have seen it, wouldn't you? For instance, if he had a suitcase with him, you would have known it, wouldn't you?
A. No, I wouldn't.
Q. Why not?
A. Because the window is about three feet from the floor, and he could have set the suitcase down back of the fixtures and I could not see it.
Q. Did you see both of his hands?
A. I saw the one which he handed the envelope in, that is all I saw.
Q. Did you watch him go out of the bank?
A. No, I did not look after he left the window.
Q. Did you look at him at all?
A. When he came in, yes, and put the envelope in the window.
Q. Did he have anything under his arms?
A. Not to my knowledge.

ALBERT HAAS, sworn.

By the Prosecutor:

Q. Mr. Haas, where do you live?
A. Philadelphia.
Q. Where are you employed?
A. Girard National Bank.
Q. In what capacity?
A. Receiving teller.
Q. Did you know David Paul?
A. Yes, sir.

Q. By whom was he employed October 5th?
A. The Broadway Trust, Camden.
Q. In what capacity?
A. As runner.
Q. In his capacity as runner, did he transact business with you in your position at the Girard National Bank?
A. Yes, sir.
Q. What was the extent of that duty that brought you together?
A. Delivering checks and currency.
Q. How often would you see him?
A. Every day.
Q. Did you see him on October 5th?
A. No, sir.
Q. Did he make any deposit with you on that day?
A. No, sir.
Q. Have you seen him since?
A. No, sir.
Q. Did you receive any deposits from the Broadway Trust, on October 5th?
A. No, sir.

Cross-examination.

By Mr. Carrow:

Q. The amount of money that he would deposit with you, Mr. Haas, each day would vary, wouldn't it?
A. Yes, sir.
Q. How long had you been accustomed to receiving money from Mr. Paul?
A. Two years.
Q. You knew him pretty well from seeing him coming in the bank?
A. Only from coming in the bank.

Q. What was his physical appearance?
A. He was a tall, slender man.
Q. As tall as you are?
A. I would say a little taller.
Q. Would you mind standing up so the jury can see how tall you are (witness complies)? That is all right; was he as heavy as you are?
A. I would say, yes.
Q. How old a man was he—did he appear to be?
A. I would say about sixty.
Q. Active?
A. I would say very active.

GEORGE W. DUNCAN, sworn.

By the Prosecutor:

Q. Mr. Duncan, where do you live?
A. Audubon, New Jersey.
Q. On Saturday, October 16th, last, where were you?
A. Fisher's Dam, Burlington County.
Q. Who was with you?
A. Mr. C. B. Tustin, John Cutts and William Cutts of Tabernacle, Burlington County.
Q. Where is Fisher's Dam, with relation to Irick's Causeway?
A. I would judge possibly between three and five miles to my knowledge.
Q. What was the purpose of you gentlemen being in that neighborhood on that day?
A. We were up there on a little duck hunting trip.
Q. Did you on that trip go to the vicinity of Irick's Causeway?

A. We did.

Q. What if anything out of the ordinary attracted your attention there?

A. Well, on our way we noticed automobile tracks that looked suspicious in that location, and as we proceeded along we finally came to a spot where we noticed footprints in the sand, and they looked strange, so we investigated and we found the body of a man.

Q. Where?

A. Buried in the sand just about fifteen yards, I would say, in from the road.

Q. I show you Exhibit S4 and ask you what locality is that?

A. That is a little bridge; it is known as Irick's Causeway, about three miles in from Tabernacle.

Q. Where was the body found with respect to that bridge?

A. I would say to the left of the bridge about 75 yards up the road, you cannot see that direct spot on account of the underbrush.

Q. I show you Exhibit S5; is that the spot which you refer to which you could not see in the other picture for the underbrush?

A. I would say yes.

Q. Where was the man's body?

A. Where was the body?

Q. Yes.

A. Buried in the sand in a hole, I would say fifteen yards in from the road.

Q. I show you Exhibit S6 and ask you if that is a picture of the hole to which you refer?

A. That is the hole we taken him out of.

Q. In what position was the body?

A. The body was lying on its back, the feet were drawn to the chin with a rope around the ankles and the hands were in this position (indicating).

Q. Did you know who the person was at that time?

A. I did not at that time.

Q. Did you see a coat in the hole?

A. After the body was taken out, I saw a coat taken out.

Q. Was there anything in it?

A. Yes, there was an envelope containing a package of checks.

Q. Was Exhibit S7 also in the envelope?

A. Yes, sir, it was, wrapped around the checks.

Q. Did you notice any wounds on the body that was found?

A. I noticed a gash from the crown of the head to the forehead, and in the center of the crown of the head there was an opening in the skull exposing the brain, and on the forearm there was an opening there and the face was bruised, looked as though it had been struck, but blood clotted there.

Q. Now I show you a piece of rope which is marked Exhibit S12 for identification——

(Rope marked Exhibit S12 for identification.)

Q. —— and ask if that is the rope that you have described as being around the ankles of Paul?

A. Yes, sir, that looks like the rope.

Mr. Carrow: The witness does not identify that rope sufficiently. He says it looks like the rope. I object to the answer.

The Witness: That is the rope.

Mr. Carrow: The witness has answered.

The Prosecutor: I offer it in evidence and ask that it be marked Exhibit S12.

The Court: The rope will be received in evidence and marked Exhibit S12.

(Rope marked Exhibit S12.)

The Prosecutor: I also offer in evidence Exhibit S7 for identification and ask that that be marked Exhibit S7.

The Court: S7 marked for identification will be received in evidence as Exhibit S7.

Q. What time did you find the body?
A. It was quarter past twelve.
Q. Where was the body taken?
A. Taken away by an undertaker sometime later in the afternoon, I believe, to Vincentown.

Mr. Carrow: Were you there when it was taken?

A. I was not.

Mr. Carrow: I object.

The Court: That will be stricken out, the answer.

Q. Mr. Duncan, will you describe to us in a general way the locality in which this body was found?

Mr. Carrow: He did that, I think, if your Honor please.

The Prosecutor: It is not my recollection that he did.

Mr. Carrow: He described finding the body in the grave.

The Court: He described, I think, Mr. Carrow, the automobile tracks and the footprints and where they led, but he has not fully described the character of the ground and the surroundings, and I will permit the question asked by the Prosecutor.

A. Very dismal location. Right out in the pines, very much underbrush, right in between the swamp.

Q. What kind of a road?

A. Well, it was a sandy road.

Q. Did you notice any marks either on the road or off of the road at any place?

A. I did. I noticed where something had been dragged up in one of the ruts of the road, showing the marks on the side of the rut as you would drag it along.

Q. Did you notice any marks off of the road in this swamp?

A. Some short distance in the swamp I saw where someone had been in there and done considerable moving around and attempted to dig a hole, but, owing to the condition of the roots, they selected another location.

Cross-examination.

By Mr. Carrow:

Q. How can you positively identify that piece of rope there as being the rope that you found wrapped around Mr. Paul's body?

A. Well, I had it in my hands on that day.

Q. You had your hands on it?

A. On that day, yes.

Q. Did your hands leave any mark on the rope?
A. I couldn't say that.
Q. Look and see if they are there.
A. I wouldn't attempt. I couldn't say that.
Q. Have you ever seen any rope that looked like it?
A. Somewhat.
Q. You have never seen that rope since the day you saw it in the James trial, have you?
A. Not since the day I saw it in the James trial.
Q. You didn't positively identify it that day, did you?
A. I wasn't asked to.
Q. Weren't you asked—

The Prosecutor: If the Court please, if this witness has given any different answer to it than he did before, I ask that the former testimony be given to him.

The Court: If you want to lay a foundation for the contradiction of the witness, that he said something different on some other occasion, just put the questions whether he did or did not say that on that other occasion, specifying when and where and what he said.

Q. During the James trial, in an answer to a question by the Prosecutor, in answer to this question by the Prosecutor, "Is that the rope?" Did you not answer, "It looks like the rope."
A. Correct.
Q. That is all you said about the rope?
A. Your Honor, that day—
Q. No, answer my question.

The Court: You are just asked whether you did say that or not, Mr. Duncan.

Q. That is all you said at that time?

A. That is all I said.

Q. Now, what leads you to be so positive today that that is the rope?

A. At that day Mr. Wolverton stood at a distance and asked me and I told him that looked like it. Today he placed it in my hands and I examined it.

Q. Well, examine it now. Examine it, look at it.

(Witness complies.)

A. That is the rope.

Q. You are sure of it?

A. Positive.

Q. You are familiar with that locality up there in the pines, are you not?

A. Somewhat.

Q. This road leading from Irick's Causeway is a rather desolate road, is it not?

A. It is.

Q. And Exhibit S4, showing a picture of that road, is a pretty fair representation, isn't it, of conditions there?

A. According to the picture, but actually it does not look so good.

Q. I see. Now, this picture is taken on the Tabernacle side of the Irick's Causeway bridge, isn't it?

A. Exactly.

Q. And this picture is taken on the opposite side of the Irick's Causeway bridge, is it not?

A. Well, yes, but from the road.

Q. Can you see the road on that picture?

A. This is part of the road here. This is the break in the sand where they fetched the body up here, showing the grade.

Q. So that that picture evidently was taken from the right-hand side of the road going out?

A. I would say possibly that would be the background.

Q. What town or what locality is on the far side of Irick's Causeway?

A. Why, I believe Chatsworth.

Q. After you cross this bridge, Irick's Causeway bridge, the road isn't as filled with underbrush as it is on the Tabernacle side of the bridge, is it?

A. For some short distance.

Q. How far?

A. Well, I wouldn't say.

Q. Well, you say this spot, the spot where the grave was, was about seventy-five yards up the road from that bridge?

A. Well, I would be safe in saying some miles.

Q. Is it not a fact that the spot where that grave was dug in the most open spot that you could find practically along that road, clear, within the full view of the road?

A. Well, I might say within the limit of a mile.

Q. That was the clearest spot that could be found?

A. I might say, yes.

Q. And how far in from the road did you say that grave was?

A. About fifteen yards.

Q. You think it was that far, fifteen yards? That is forty-five feet.

A. Well, approximately, I would say. Of course, I didn't measure it only with my eye.

Q. How far from where you are sitting? Just show us how far in you think it was.

A. I would say about where that lady is sitting with the red hat, there.

Q. Was the grave in a position that it could be seen from the road?

A. Before we found it or after we found it?

Q. Before you found it.

A. No.

Q. Could it be seen after you found it?

A. You could see the sand thrown up on both sides.

HARRY PAUL, sworn.

By the Prosecutor:

Q. Mr. Paul, where do you live?

A. Mt. Holly, N. J.

Q. What relation are you to David Paul?

A. He was my father.

Q. How old was your father?

A. He was 58 years old last May.

Q. About how tall?

A. He were about five foot eight.

Q. About how much did your father weigh?

A. A hundred and thirty-five, a hundred and thirty-six pounds.

Q. What kind of hair did he have?

A. Brown, mixed with gray.

Q. Did you see his body on the afternoon of October 16th?

A. I did, sir.

Q. Where?

A. At Vincentown, in the morgue.

Q. And in what condition?

A. I went there to identify the body that were dead.

Q. Did you notice the wounds?

A. I seen several wounds on the head.

Q. Where was your father employed?

A. He was employed at the Broadway Trust Company, Camden.

Q. I show you Exhibit S13 for identification.

(Wallet, marked Exhibit S13 for identification.)

Q. —which is a leather wallet, and ask you if you know to whom that wallet belonged?

A. That belonged to my father. I bought it and give it to him myself.

Q. Do you know what he carried in the wallet?

A. Not exactly; no, sir.

Q. Are you familiar with your father's handwriting?

A. I am, sir.

Q. I show you an envelope marked Exhibit S14 for identification—

(Envelope marked Exhibit S14 for identification.)

Q. —which contains torn pieces of paper, and ask that you go through these pieces of paper for the purpose of identifying any that may have belonged to your father. I would suggest that as you find anything you can identify you speak of it.

A. I find part of a fishing license with part of his signature on it, and also some papers here with his figures on it, and also on his gunning license his signature in his own handwriting, and a part of a receipt which he had paid in the Junior Order of American Mechanics, an organization which he belonged to.

Q. I now show you an envelope containing torn pieces of paper, marked Exhibit S15 for identification—

(Envelope marked Exhibit S15 for identification.)

Q. —and ask that you examine those papers and see if you find anything there that can be identified as your father's?

A. There is a piece of paper in his handwriting.

Q. What do the papers consist of? Will you describe them as you go along?

A. It only has a few words here, but it is in his handwriting. That is all I can see. Here is another piece of paper in his handwriting which only has a few words on it. The rest of it is missing. Also another piece. I imagine it is part of another piece there. There is a piece with his figures on. Another piece with his figures on.

Q. Just go through it quickly.

A. That is also a piece with his figures and writing on. Another piece with his figures and writing.

No cross-examination.

DR. FRANK O. STEM, sworn.

By the Prosecutor:

Q. Doctor, where do you live?

A. Berlin, New Jersey.

Q. How long have you been a practicing physician?

A. Since 1891.

Q. From what institution did you graduate?

A. Jefferson College.

Q. Will you speak a little louder, please?

A. Yes, sir, Jefferson College.

Q. Do you hold any official position in the County of Camden?

A. County physician.

Q. How long have you been county physician?

A. Eight years.

Q. As county physician on October 17th last did you make an examination of the body of David Paul?

A. I did.

Q. Where?

A. At Vincentown, New Jersey.

Q. At what place?

A. The morgue of the undertaker there.

Q. And will you describe the condition of the body as to wounds?

A. The immediate cause of death was a compound fracture of the skull; the wound was on the top of the head a little to the left and about five inches in length. There were minor scalp wounds on the right side of the head and an incised wound on the inner aspect of the right arm about four inches from the wrist, and a contusion on the right side of the upper part of the face over the temporal region, down over the upper part of the lower jaw, and the ramus of the lower jaw was broken.

Q. What was the cause of death?

A. A compound fracture of the skull with injury to the brain.

Q. Could you from the character of the wounds give an opinion as to the kind of instrument that could have caused the wounds in question?

A. The wound that caused death could have been made by an instrument ¾ of an inch in width, if the wound would admit an instrument that wide. The

wound on the right arm seemed to be made with a knife, some sharp instrument; it was an incised wound, also the scalp wounds on the right side of the head.

Cross-examination.

By Mr. Carrow:

Q. Doctor, will you just show on your own head where this big wound was on Mr. Paul's head?

A. Yes, just about here on the left side; it was five inches in length. (Indicating on head.)

Q. Ran from the crown of the head toward—

A. Back.

Q. The back?

A. Yes.

Q. Beyond the crown of the head?

A. Yes.

Q. Up how far on the forehead?

A. Oh, it started about here, not on to the forehead, and ran forward.

Q. How far?

A. About five inches.

Q. About where your finger stops?

A. Yes, about there I would judge.

Q. About there? (Indicating.)

A. Yes.

Q. About how wide was that wound?

A. About ¾ of an inch wide.

Q. And how deep?

A. Down into the brain tissue.

Q. Right down through the skull?

A. Yes, sir.

Q. Suppose an instrument ¾ of an inch wide and an 1/16 of an inch thick and about eighteen inches

long made of iron were used in the infliction of such a blow, could that wound have been made by one blow?

A. Yes, it could have been if it was with sufficient force.

Q. Is it likely that one blow would have gone that deep?

A. Yes, with sufficient force it would.

Q. The force used by a man of ordinary strength?

A. Yes.

Q. Now, how many other wounds were there?

A. There were five wounds on the right side of the head.

Q. Will you just turn your head to the jury so they can see right where they were?

A. Yes, well, just down over the forehead; some were pretty well down over the forehead.

Q. How far down, indicate on your own head?

A. I would say about to there. (Indicating.)

Q. About to there? (To the jury.) Can you see that, gentlemen of the jury? In which direction were those wounds running, in length?

A. From back to front.

Q. From back to front?

A. Yes.

Q. Indicating what to your mind as to the position of the person, in relation to the person that was struck, that delivered those blows?

A. In front of them.

Q. In front of them?

A. In front of them, yes, or over them.

Q. Or over them?

A. Yes.

Q. Not to the side of them?

A. No.

Q. Were there any marks upon the lower part of the face from the point here where I indicate with my fingers, around here?

A. No.

Q. Were there any marks or contusions around the mouth?

A. No.

Q. Or nose?

A. No.

Q. Or ears?

A. Yes, the right ear, just in front of the right ear.

Q. Was the ear itself lacerated?

A. No, there were no lacerations, just a contusion as though—

Q. A contusion right here?

A. Yes.

Q. Right at this point near the lower edge of the man's upper jaw?

A. Yes, sir.

Q. Now, you say there was a fracture of the jaw?

A. Yes, a fracture.

Q. Where was that, please, indicate?

A. Right here. (Indicating.)

Q. Right here?

A. Yes, the ramus of the jaw.

Q. Was there a laceration there where this contusion was?

A. No.

Q. Was it lacerated here also?

A. No, just a contusion.

Q. Now, if Mr. Paul had been struck with the sharp edge of such an instrument as I described, it would have in all probability lacerated the skin, would it not?

A. Undoubtedly, yes.

Q. When did you say you first saw Mr. Paul's body?

A. On the 17th of October.

Q. And at that time from his general appearance, how long in your opinion did you think he had been dead?

A. We decided that he had been dead about four days at that time.

Q. About four days?

A. Yes.

Q. That would have been on the 13th of October you thought that he had been killed?

A. Yes, from my judgment, yes.

Q. Was there anything—did you ever make any other examination of the body after that?

A. No.

Q. Is there anything from your examination of the body itself to lead you to change your mind as to when Mr. Paul met his death?

A. No, not from an examination of the body.

Q. If it were not for what you have heard or what has been told you, you would still say that Mr. Paul met his death on October 13th?

A. Yes.

Q. Was anyone else present when you examined the body, Doctor?

A. Oh, yes.

Q. Who?

A. Dr. Langsdorf, the county physician of Burlington County, the undertaker and his father and Dr. Ewing of Berlin.

Q. Did you examine Mr. Paul's body?

A. Yes, sir.

Q. Did you find any bullet wounds on the body anywhere?

A. Absolutely none, no.

Q. Did you examine the interior of the mouth?

A. No, we did not.

Q. If Mr. Paul had been shot in the mouth and the bullet had come out through the incision or through the big gash which you have described, would it have been possible for you to have discovered it?

A. No.

Q. It could have been done without you knowing it?

A. Yes, sir.

By the Prosecutor:

Q. Doctor, the condition of a body after death as to the state of preservation, does it depend on conditions?

A. It does, yes. Our judgment was formed from the weather conditions that is, we were under the impression the body was in the open, I was at that time, and a body lying exposed to the air in the mean temperature—the decomposition was that of a body that had been exposed about four days.

Q. Would the place in which the body was exposed have anything to do with it?

A. Oh, yes, undoubtedly.

Q. Would it be preserved better in some localities than in others?

A. It would, yes, sir.

Q. Would it be preserved better in a locality where the underbrush was thick and a cool atmosphere?

A. Yes, sir.

Q. Would the fact that it was located on the banks of water with cedar have anything to do with it?

A I don't know from my own knowledge I have heard so, but not from my own knowledge.

Mr. Carrow: I object, if the Court please, to that answer.

The Prosecutor: Well, if your Honor please, a doctor often testifies from the standpoint of what he has heard rather than from what his personal experience may have been. The whole subject-matter of medicine is such that it is very largely the result of information gleaned from the experience of others rather than the direct experience of the person who is giving the testimony.

Mr. Carrow: If your Honor please, the doctor has not qualified as an expert on the chemical action of cedar water upon the human body.

The Court: Well, that is the only fault that there is with the question; the fact that he may have heard so or may have read so, that cedar water does have such an effect, why, of course, would not interfere with his giving an answer as an expert witness, but of course he has not been interrogated, Mr. Wolverton, regarding whether he knows of the action of cedar water; so that if you will lay that as a foundation then I will—

Q. Doctor, do you know whether tannic acid in cedar water is of a preservative character?

Mr. Carrow: Pardon me; I object to that question. Don't answer it, Doctor. There is no information before us that there is that kind of acid in cedar water.

The Court: Well, that objection is well taken. You can ask the witness regarding what the properties of cedar water are, if he knows.

Q. Doctor, do you know whether cedar water has any properties that are of a preservative nature?
A. Not from my own knowledge, no, sir, I do not.
Q. Do you know from reading or studying or—
A. From what I have—

Mr. Carrow: I object, if your Honor please.

The Court: No, I think, Mr. Carrow, that I will permit the Prosecutor to ask if he has made any study.

Mr. Carrow: Any special study.

The Court: Well, any special study of that subject as a physician.

Q. What is your answer, Doctor?
A. Whether I have made any special study of this matter?
Q. Yes.
A. I have not.
Q. Have you made any study that enables you to say whether cedar water has any characteristics of a preservative character?

Mr. Carrow: Now, if your Honor please, I object to that question. The witness has testified that he has made no special study, and he must qualify in a special way.

The Court: Well, that is the question, Mr. Carrow, as to whether he has or has not.

Mr. Carrow: He said he had not.

The Court: Now, just read the question, will you, Mr. Stenographer.

(Question repeated.)

The Court: He can answer that question whether he has made any special study of that.

Mr. Carrow: He did answer that question, your Honor, he said no.

The Prosecutor: There has been no answer to the last question.

The Court: No, I think there has been no answer made. I think is a little different question from the first question, Mr. Carrow.

Mr. Carrow: Does your Honor overrule my objection?

The Court: Yes, I will overrule your objection; you may have an exception.

A. I have made no such special study.

By Mr. Carrow:

Q. Doctor, just a moment; when you made that examination you knew that the body had been in a grave, didn't you?

A. I did, yes, sir.

Q. So that you knew all the physical conditions surrounding the condition of the body at the place the body was in?

A. Yes, I understood it was buried in sandy soil, which favored the preservation of the body.

Q. Oh, Doctor, there is one more question, if you don't mind. The wound on the arm, was that on the left forearm or the right?

A. On the right.

Q. On the right forearm?

A. Yes.

Q. That was a laceration, wasn't it?

A. Yes, and an incision.

Q. And that incision you say probably looked as if it had been done by a knife?

A. By some sharp instrument, yes.

Q. Do you remember the character of the instrument that I described, an iron instrument say ¾ of an inch wide and a 1/16 of an inch thick?

A. Yes.

Q. A severe blow from that kind of instrument delivered edgewise, would that make such an incision?

A. That would make an incised wound.

Q. And just what part of the arm was that?

A. The inner side of the right forearm about four inches above the wrist.

Q. About there? (Indicating.)

A. Yes.

FRANK BRADDOCK, sworn.

By the Prosecutor:

Q. Where do you live?

A. Medford, N. J.

Q. Do you know the vicinity of Irick's Causeway?

A. I have been there.

Q. I show you a piece of tape marked Exhibit S16 for identification—

(Envelope containing tape marked Exhibit S16 for identification.)

Q. —and ask whether you have seen that before, and if so where and under what circumstances?

A. Yes, sir.

Q. Where did you find it?

A. I found that on the road leading from Irick's Causeway to Tabernacle.

Q. How far from the stream which has the bridge over it which has been spoken of and which appears in the picture Exhibit S4? How far from the bridge which appears in the picture?

A. Possibly 50 or 60 feet on the right-hand side towards Tabernacle.

Q. Going towards Tabernacle?

A. Yes, sir.

Q. How far in from the road?

A. Possibly two feet.

Cross-examination.

By Mr. Carrow:

Q. When did you find that, Mr. Braddock?

A. On October 17th.

Q. The day after the body was found?

A. Yes, sir.

Q. And were you by yourself?

A. No, sir.

Q. Who was with you?

A. Lloyd Wright of Medford, William Cowperthwaite of Medford.

Q. What were you doing there?

A. I had gone to see the place where the body had been reported to have been found.

Q. Did you go there at anybody's request?
A. No, sir.
Q. What did you do after you found that?
A. This? Put it in the car and brought it home.
Q. And then what did you do with it?
A. Left it with Mr. Lloyd Wright, whose car I was in.
Q. Did you tell anybody about it?
A. Possibly those that were in the car with us. We spoke about it.
Q. Who else was in the car? That is what I want to know.
A. Who went in the car with us?
Q. Yes. Who was there?
A. Those I have named, and H. S. Boger of Medford, and J. K. Haines of Medford.
Q. Mr. Parker with you?
A. No, sir.
Q. Did you ever speak about finding that to anyone outside of those that were in the car when you got home?
A. I don't remember about that.
Q. Did you speak to Mr. Parker about it?
A. No, I did not.
Q. Did you see any reward offered for that?
A. No, sir; I did not.
Q. Did you receive any reward for finding it?
A. I did not.
Q. Did you deliver it to Mr. Parker?
A. No; I gave it to Mr. Wright.

AUGUSTUS BARTLETT, sworn.

By the Prosecutor:

Q. Where do you live?
A. Vincentown.
Q. Were you in the vicinity of Irick's Causeway on October 17th?
A. I was; yes sir.
Q. Did you find anything?
A. Found a key.
Q. I show you Exhibit S8, which is a key, and ask you if that is the key that you found?
A. Yes, sir.
Q. Where did you find it?
A. Why, on the right-hand side of the road going from Tabernacle to the Sooy place. Found it about twenty feet in from the road, ten or twelve feet from the creek.

Cross-examination.

By Mr. Carrow:

Q. Were you there alone?
A. No.
Q. Who was with you?
A. Well, there was a crowd up there when I was there. A good many.
Q. Did you go there alone?
A. No.
Q. Who did you go with?
A. I had my father and mother and my sister.
Q. Did anyone ask you to go there?
A. No, sir.
Q. What did you do after you found the key? What did you do with the key?

A. Gave it to Sheriff Haines.
Q. Take it directly to him?
A. He was up there a little while afterwards, and I gave it to him.
Q. You stated that you found it and gave it to him?
A. Yes, sir.

The Prosecutor: I offer this key in evidence.

The Court: The key will be received. It has already been marked S8.

The Prosecutor: For identification, yes, sir.

(Key marked Exhibit S8.)

CHARLES C. MORTON, sworn.

By the Prosecutor:

Q. Mr. Morton, where do you live?
A. Mt. Holly, N. J.
Q. Do you hold any position of official character in the State?
A. I do.
Q. What is it?
A. Fish and game warden.
Q. For what district?
A. For Burlington County.
Q. How long have you held that position?
A. Eleven years.
Q. Are you familiar with the surroundings at Irick's Causeway?
A. Yes, sir.

Q. Will you describe them?

A. Well, it is in the edge of the Jersey pines, thickly covered with pines and underbrush.

Q. Is it a locality that is secluded? Is it much used?

A. Why, I would say no, except I think the mail carrier goes through there every day. That is about the only time that it is used.

Q. What is the character of the road?

A. The road is a sandy road.

Q. What is the character of the stream of water that runs through the causeway?

A. Why, the stream is a narrow stream which runs through the underbrush and heads from the cedar swamp. The water is very red.

Q. What is the character of the water?

A. Well, it is cold. I think with the temperature of the air 80, the temperature of the water was 64. That was taken by myself and a biologist early in September.

Q. So that the water is very much cooler than the atmosphere?

A. The water is cooler than the atmosphere. I think it is about—there are two cooler streams in Burlington County than that one. That is about the third coolest stream in the county.

Q. And what is the locality with relation to coolness?

A. Well, in the swamp it is cool.

Q. Take a point on the bank of this little stream some twenty or thirty feet in from this road at Irick's Causeway. Is that a place that is open or covered with underbrush?

A. Well, before the body was taken in there it was entirely covered with underbrush, but by dragging the body in there, of course, that had opened up a space.

Q. And what with relation to atmospheric conditions would you say about that place?

A. I should say it would be very cool in comparison with the higher ground surrounding the swamp.

Q. What is the character of the water as to its contents or composition?

Mr. Carrow: I object. This witness has not qualified himself as competent to testify to that.

The Court: I think that he can testify as to the character of a water that he is familiar with, just as if you were up at Saratoga and tasted one of those waters up there you could testify as to how it tasted afterwards.

Mr. Carrow: Yes; but I think the Prosecutor wants him to go a little further than that.

The Court: Suppose we just wait until he gets over the line, if he does.

(Question repeated.)

A. Well, the water, in my judgment, contains tannic acid.

Mr. Carrow: That is just what I thought this witness was going to say. I object to that, without any previous qualification as an expert chemist.

The Witness: I have.

(Question and answer repeated.)

The Court: I think that I will allow that, unless the witness should hereafter show that he did not know what tannic acid was.

Q. As game warden, is it necessary for you to know the different qualities of the water in Burlington County for the purpose of putting fish in or keeping them out?

A. Well, we generally make a study of it. Of course, I don't know the characteristics of tannic acid, although I have had some experience with deer skins and skins that have laid in the water in this stream in question.

Q. What has been your experience in that respect?

A. Well, in December of last year, or year before last, I was working on a deer case, and during the making of this investigation we found the skin of the deer hid under the bridge on this same stream, about a mile below. I took the skin out and took it down to Mt. Holly and stretched it up in a little bungalow that I have there, tacked it up, and there has never been anything done to the skin, and the skin is in a fair state of preservation.

Q. How do you account for that fact?

A. Well, I never accounted for it, except that it was due to the tannic acid in the water. That is the only thing that has ever occurred to me.

Q. From that you judge that tannic acid has a preservative quality?

A. I always thought so.

Q. And how long had that skin been there, do you know?

A. It had been there about four weeks.

Q. If it had not been in water of that character and had laid in the open, in ordinary sandy soil, how would it have appeared at the present date?

A. The hair would have slipped from the skin. I have had that experience within the last three eeks, a deer that had laid out on the ground in just such sandy soil as his, and the hair slipped from the skin.

Q. Would you say from your experience with the kind of water that it is and the locality as you have described it, that it is a place calculated to preserve a body?

A. I couldn't say about that.

Q. Would it be, in your judgment?

A. In my judgment, it did.

Q. Now, Mr. Morton, on October 16th were you there in the vicinity of Irick's Causeway?

A. Yes, sir.

Q. For what purpose and under what circumstances?

A. I went with Mr. Parker to make an investigation or help him in regard to this murder.

Q. What did you find when you got there?

A. We found what seemed to be the body of a man buried in a hole, a sandy spot along the road, I should say about twenty feet from the road leading from Tabernacle to the Sooy place.

Q. Were you there when the body was taken away by the undertaker?

A. I was.

Q. Who was the undertaker?

A. Mr. Kline, from Vincentown.

Q. And where was it taken by him?

A. It was taken to Vincentown.

Q. To the morgue there?

A. Yes, sir.

Q. Were you there in that vicinity on October 18th?

A. That was on Monday?

Q. Yes.

A. Monday, October 18th. Yes, sir.

Q. I show you Exhibit S14 for identification, which is an envelope containing torn pieces of paper, and ask you if you have seen those before?

A. Yes, sir; I have.

Q. Where did you find them?

A. They were recovered along the road leading from Irick's Causeway toward the road leading from the Sooy place to the Powell place.

Q. And were they found by you on October 18th, as you have described?

A. Yes, sir.

The Prosecutor: I offer this in evidence at this time.

The Court: It will be received in evidence as Exhibit S14.

Q. I show you Exhibit S15 for identification, which is an envelope containing pieces of paper, torn, and ask where you found, if you did find them, those pieces of paper?

A. Yes, sir.

Q. When was that visit made?

A. That was on Tuesday, October 19th.

Q. And where did you find them?

A. They were recovered along the road leading from Irick's Causeway towards the road leading from the Sooy place to the Powell place strewn along a distance of about three-quarters of a mile.

The Prosecutor: I offer that exhibit in evidence.

The Court: That will be received in evidence as Exhibit S15.

By the Prosecutor:

Q. Now, on the morning of November 7th were you in company with any officials for any purpose?

A. On Sunday morning, November 7th, yes, sir.

Q. What time of the morning?

A. Well, from midnight on up until daylight.

Q. Who was with you?

A. Mr. Parker, Mr. Fleetwood, Prosecutor Wolverton, myself—

Q. Mr. Doran?

A. Mr. Doran, Mr. Painter.

Q. Well, there were quite a company, weren't there?

A. There was.

Q. Where did you go?

A. We left Mount Holly about one o'clock and came to Camden and went out to the Evergreen Cemetery.

Q. For what purpose?

A. For the purpose of recovering, as we supposed, money which had been buried there.

Q. What was found there in the way of money?

A. There was two packages found which contained money.

Q. I show you Exhibit S17 for identification, and ask if that is one of the packages of money that was found?

The Court: Wasn't S17 the package containing mutilated bills?

The Prosecutor: No, S16 was the last which was the tape and the mutilated paper.

The Court: Yes, that is all right, mark it 17; all right.

(Said package is marked Exhibit S17 for identification.)

A. Yes, it is.

Q. In what condition was the bundle as to wrapping when it was located?

A. It was wrapped in newspaper.

Q. And where was it found?

A. I think this package was found buried underneath where a flower had been buried on a grave.

Q. Was it in a burial lot?

A. Yes, it was.

Q. Now, you say there were two packages; where was the other package found?

A. This package was dug up by myself about four feet, I should say, three or four feet from where this first package was found.

Q. In the same burial lot?

A. In the same burial lot, but nearer the edge of the lot, near the railing.

Q. How was it wrapped?

A. It was wrapped in—like cardboard, with tire tape around it.

Q. And is this the package of money and the cardboard that is around it and the tape which was dug out of this burial lot in the early morning of November 7th?

A. Will you let me look at the inside?

(Package shown witness.)

A. That is the package that was taken from the ground by me.

Q. And describe how it was wrapped?

A. It was wrapped with tire tape around it and placed underneath the flower pot; the flower pot was turned upside down and the money underneath it that way. (Indicating.)

Q. In a vertical position such as that with a flower pot over the top?

A. Yes.

Q. Was the flower pot on top of the ground or underneath the ground?

A. Underneath the ground I should say about eighteen inches.

Q. So that it was not visible from the outside?

A. Oh, no.

Q. You had to dig down?

A. You had to dig down.

Q. And you found it beneath the flower pot in a vertical position?

A. Yes, sir.

Q. Now, on November 14, 1920, were you in the vicinity of Irick's Causeway?

A. On November 14th, which was the first Sunday after the opening of the hunting season, I happened to be in that locality and I thought I would take a little look. I walked up along, in the underbrush along the road—

The Prosecutor: Before I pass on, may I have this last package of money that has been referred to by the witness in his testimony marked as Exhibit S18, and I offer both of these exhibits in evidence.

The Court: Yes, they will be received in evidence.

(Said two packages of money are marked respectively Exhibits S17 and S18.)

Q. On the date that you have just described, did you find anything?

A. I did.

Q. What?

A. Part of the lining of the door of a car.

Q. What kind of a car?

A. Well, in my judgment, it was a Ford car.

Mr. Carrow: Now, wait a minute, he said he didn't know, didn't he?

The Court: No, he said in his judgment it was a Ford car.

A. The lining of a Ford car.

The Prosecutor: I assume that some judicial notice will be taken of the fact that the Ford is the universal car?

Q. Do you drive a Ford car yourself?
A. I have more experience with the Ford car.
Q. Do you drive a Ford car?
A. I do, yes, sir.
Q. And are these pieces of lining which I show you the pieces that you found at that time?
A. Yes, sir, they are.

The Prosecutor: I offer them in evidence and ask that they be marked Exhibit S19.

(Said pieces are so marked.)

Q. Where did you find those pieces?
A. They were found on the left-hand side of the road leading from Irick's Causeway toward the road leading from the Sooy place to the Powell place.
Q. Where was that, which side of the causeway?
A. On the left-hand side of the road, on the same side the body was buried on.
Q. On which side of the causeway, toward Sooy's corner or toward Tabernacle?
A. Will you repeat that?

(Question repeated.)

A. Toward Sooy's corner.

Cross-examination.

By Mr. Carrow:

Q. You don't know whether those pieces of lining of the automobile belong to a Ford or any other machine, do you?

A. Why—

Q. Now, as a matter of fact—

The Prosecutor: Answer the question.

Mr. Carrow: I am just asking him if he knows they are actually from a Ford car.

A. Yes, I would say they are from a Ford car.

Q. You would say that from the fact that you afterward discovered they were from a Ford car, is that it?

A. No, sir, I wouldn't.

Q. Or that you knew a Ford car had been used? If you did not know anything about any automobile in this concern, in this transaction, would you say that they were from a Ford machine?

A. I would, yes, knowing what I know about a Ford.

Q. Now, you spoke of being in the cemetery on November 7th, was it?

A. Sunday morning, November 7th.

Q. What time?

A. Well, I should say about two o'clock.

Q. It was dark?

A. Pretty dark.

Q. Any moon out?

A. I think there was a little, I am not sure.

Q. Sure about that?

A. No, I am not sure.

Q. It was pretty dark there, wasn't it?
A. No, not so very dark.
Q. Was it dark enough to have to use lanterns?
A. Well, we had a light, a flashlight.
Q. Yes, you had a light. Now, you say you discovered that smaller package of money yourself?
A. I dug it out myself.
Q. Now, who told you where to dig?
A. Mr. Schuck.
Q. The defendant?
A. Yes.
Q. Were you there when the other package was found?
A. Why, he didn't tell me where to dig, he had probed for it himself, but he couldn't seem to locate it.
Q. I see, but you took his lead?
A. I took the lead and started to probe myself and I located it.
Q. Were you there when the other package was found?
A. I was.
Q. Did you dig that out?
A. No, sir.
Q. Who did?
A. I think Mr. Parker.
Q. Do you know how he happened to dig at that particular spot?
A. I know how we happened to go to the Evergreen Cemetery.
Q. Well, how did you happen to go there?
A. Mr. Schuck told us where to go.
Q. Did you hear Mr. Schuck tell Mr. Parker where to dig for that other package?
A. I did.
Q. Now, you say it was on a grave, are you sure about that?

The Prosecutor: If the Court please, he hasn't said that; my question was whether it was a burial lot.

Mr. Carrow: I will ask that the stenographer read—

The Court: Well, you can just ask whether it was on a grave or not.

Mr. Carrow: No, my question was different. The witness, my distinct impression is, testified that this money was on a grave. I asked him if he was sure about that.

A. It had every appearance of being a grave; I don't know whether there had been anybody buried there or not.

Q. Was there anything about the character of the ground that would lead you to indicate that it was a grave?

A. Yes.

Q. What?

A. Well, there seemed to be—in my judgment it looked as though there had been a grave there.

Q. A mound?

A. A mound, not very much of a mound, but a flower had been placed there.

Q. That was the only thing that would indicate to your mind that it was a grave, wasn't it, because a flower had been placed there?

A. Well, I couldn't tell whether there had been anybody buried there unless I dug down.

Q. And you don't know as a matter of fact—as a matter of fact, you don't know whether that money was buried on a grave, do you?

A. I know it was buried in a burial lot.

Q. Oh, that is different; that is all. What is tannic acid?

A. Tannic acid is a preservative.

Q. Well, what is it—what are the chemical properties of it?

A. I couldn't tell you; I am not a chemist.

Q. You don't know?

A. No.

Q. Do you know whether or not that water up there contains tannic acid?

A. Well, I know that in my judgment it does.

Q. Well, if you don't know what tannic acid is, how do you know that that water contains it?

A. Why, I know it preserved this deer skin that I had.

Q. Do you know whether that was tannic acid that preserved that deer skin—did you ever analyze that water?

A. I was led to believe—No, I did not.

The Prosecutor: Do you want him to answer that question before he answers the next one?

Mr. Carrow: Yes, let him answer it; what was it?

The Court: Just repeat the question, Mr. Stenographer.

(Question repeated.)

Q. You were led to believe, you say?

A. Yes.

Q. You started to answer that question by saying you were led to believe?

A. Yes, sir.

Q. That it had tannic acid, is that right?
A. Yes.
Q. All you know is what somebody has told you about it?
A. Well, when we were making the biological survey—
Q. Now, wait—somebody told you something.

The Prosecutor: I object—

The Court: No, that is a proper answer; let him finish. He said when he was making a biological survey.

The Witness: Of the county, of the streams in the county, the biologist who accompanied me on the trip made remarks about—

Mr. Carrow: I object; no, wait; now, stop; I object to what remarks the biologist made.

The Court: Well, I think he is not entitled to state what remarks the biologist made.

Q. What other properties does this water have up there that no other water has?
A. It is cold.
Q. Cold—isn't there any other water cold?
A. Positively.
Q. What else?
A. Well, that is all, I guess.
Q. So that the only difference between that water and any other water anywhere is that it is cold in your opinion, is that so?
A. It is good, pure water.
Q. Did you ever drink it?
A. I have.

Q. Now, Mr. Morton, you are quite familiar with that locality up there, aren't you?

A. I guess so, yes, sir.

Q. Is that a fair picture of the grave and the conditions of the ground surrounding the grave there?

(Showing witness exhibit.)

A. It is.

Q. Now, if you will notice that picture and the location of the grave there, that grave would be directly struck by the rays of the sun, wouldn't it? No underbrush around there, is there?

A. Not where the grave is, no.

Q. Now, I understood you to say on your direct examination that the place that this body was buried had an unusual amount of underbrush and so forth over it—did you say that?

A. At the time the body was buried there was considerable underbrush there, but so many people being there it mashed it down before that photograph was taken; there was a big lot of underbrush there before the body was taken there.

Q. Is that a fair representation of the ground around that grave?

A. It is.

Q. Does that indicate that there is much underbrush there?

A. No, if there was a thousand people walking around there it would be mashed down, wouldn't it?

Q. Now, as a matter of fact, Mr. Morton, isn't that the most exposed spot on that whole road there?

A. When were those pictures taken—what was the date?

Q. I don't know that, evidently after the body was found.

The Prosecutor: December 2nd, I think.

Q. Isn't that true, as a matter of fact—isn't that the most exposed spot along that roadway—the easiest place—

A. It is at the present time.

Q. Well, wasn't it then?

A. No, sir.

Q. Now, I suppose you have been on that bridge many times, haven't you?

A. I have, yes.

Q. Do you know the spot where the body was presumed to have lain before it was buried?

A. I do.

Q. How far in from that bridge would you say that spot was? You can't see it, I don't think, on that picture.

A. Well, I should say twenty to thirty feet.

Q. That far, do you think?

A. I should say so; I never measured it; but I should say about that.

Q. If anyone had stood on that bridge and looked up that stream, would they have been able to see the body?

A. No.

Q. Why not?

A. The underbrush and logs along there, they couldn't have seen it.

Q. Suppose the body had been on top of the logs, could they have seen it?

A. I don't think they could.

Q. Couldn't have even seen it then?

A. No, sir.

FRANK G. GIBERSON, sworn.

By the Prosecutor:

Q. Where do you live?
A. Red Lion.
Q. On November 7th, 1920, were you in the vicinity of Irick's Causeway?
A. I was; yes, sir.
Q. Did you find anything there?
A. I did; yes, sir.
Q. What?
A. A wallet.
Q. Is this the wallet, which is marked Exhibit S13?
A. Let me see it, please.

(Wallet handed witness.)

A. Yes, by the marks of the paper that is on the side and where the mice has gnawed it.
Q. Did you find any papers?
A. I did, yes.
Q. What kind of papers?
A. Some papers on the same road, on the right-hand side, about two hundred yards from the bridge, some stained spots of blood in it.
Q. Are they the pieces that are in the wallet?
A. They are; yes, sir.

Cross-examination.

By Mr. Carrow:

Q. Where did you say you found that wallet, Mr. Giberson?

A. On the left-hand side of the road, about one hundred yards from the grave. That was coming from Tabernacle.

Q. Which side of the bridge?

A. That would be on—

Q. On the Tabernacle side?

A. On the Sooy place side.

Q. On the opposite side from the Tabernacle side?

A. Yes, on the left.

Q. When was that?

A. That was the 7th.

Q. Seventh of what?

A. November.

Q. What were you doing there, Mr. Giberson?

A. Mr. Parker sent me there to see if I could find anything that was exhibited and throwed away, on account of his grave.

Q. And you took the wallet, of course, back to Mr. Parker?

A. Yes, sir.

The Prosecutor: I offer the wallet in evidence.

The Court: The wallet will be received in evidence.

(At this point an adjournment was had until Wednesday morning, February 16, 1921, at 9.45 A. M.)

THIRD DAY.

Camden, N. J., February 16, 1921.

(Trial of the cause resumed at 9.45 o'clock A. M., pursuant to adjournment, in the presence of the defendant and counsel for the respective parties.)

WILLIAM E. ALBERTSON, sworn.

By the Prosecutor:

Q. Where do you live?
A. Mount Ephraim, New Jersey.
Q. What business are you in?
A. The garage business.
Q. Where is your business located?
A. On the Blackwood Pike.
Q. At what point?
A. Blackwood Pike and the New Prospect Boulevard.
Q. Where is the New Prospect Boulevard with relation to Mount Ephraim?
A. It is about four squares from the postoffice toward Blackwood.
Q. Do you know Frank James?
A. I do.
Q. On October 6th last was he at your garage?
A. He was.
Q. At what time?
A. 9.30 in the evening.
Q. For what purpose was he there?

Mr. Carrow: I object, now, wait a minute; if your Honor please, unless the defendant were present at the same time I object to that testimony as being incompetent and immaterial.

The Prosecutor: If the Court please, it is not my purpose to go into any conversation that this witness had with Frank James at that time. The extent of the examination will be to prove the circumstances of his coming there and the purpose of his coming. There will be no conversation.

The Court: The evidence in the Court's opinion is admissible to show what James did.

Mr. Carrow: Even in the absence of the defendant, if the Court please?

The Court: Yes, there are certain things that this witness could testify to even in the absence of the defendant.

Mr. Carrow: May I have an exception to your Honor's ruling?

The Court: Yes, certainly.

(Exception noted for defendant.)

(Signed and sealed accordingly.)

FRANK S. KATZENBACH, JR.,
J. (Seal)

JOHN B. KATES,
J. (Seal)

Q. Have you ever seen the car of Frank James?
A. I have.

Q. What kind of car is it?
A. A Ford car.
Q. Of what type?
A. Touring.

Mr. Carrow: If your Honor please, I would like it to appear on the record that I object to all of these questions that have to do with anybody except this defendant. I cannot see the materiality of them as affecting this defendant, what Frank James did or what he had at this man's garage, or what he said, cannot be chargeable against this defendant in my opinion; I think it is incompetent and immaterial.

The Prosecutor: In order that the Court may have the full benefit of what it is the purpose of the State to show, and the reason for it, I will say that it is to show that the automobile of James was brought there in a certain condition. The State will also—

The Court: Well, I think I know, of course, Mr. Wolverton, from my experience with the facts in this case, what the purpose is, and I think that the evidence is admissible, and of course I will give Mr. Carrow, for his client, the benefit of an exception.

The Prosecutor: And I was about to say, if the Court please, that we will follow that with a statement by the defendant as to his knowledge of the condition of the machine and that it was taken there.

Q. What type of car did James have?
A. A Ford touring car.
Q. What kind of car did he bring to your garage on October 6th?
A. A Ford touring car.

Q. Whose car was it?
A. James' car.
Q. And what time did he arrive?
A. About nine or nine-thirty in the evening.
Q. What was the condition of the car?
A. The windshield was broken, the cardboard removed from the left rear door, radius rod broken, a hole in the top about two inches lengthwise and an inch and a quarter across, a triangular cut.
Q. You have described the left-hand door as having the cardboard missing?

Mr. Carrow: If your Honor please, Mr. Wolverton, the witness, has not described anything of the sort.

The Court: He said that the cardboard was missing on the left-hand door, Mr. Carrow.

Mr. Carrow: Oh, pardon me.

The Court: But I will go back if there is any question about it.

Mr. Carrow: Pardon me, I did not hear the witness testify to that.

Q. When you refer to the cardboard missing what do you have reference to?
A. It is a covering for the door.
Q. I show you Exhibit S19 for the State, and ask if that is the character of cardboard or lining that you have reference to?
A. That is.
Q. Are you familiar with Ford cars?
A. I am.

Q. Is Exhibit S19, these pieces of cardboard, the kind that is on a Ford car?

A. Similar to what is used on a Ford car.

Q. Did you notice whether there was any binding tape on the left-hand door?

A. The tape was missing and all that was in the door was one upholstering tack in the lower left-hand corner.

Q. I show you a door off an automobile and ask if you can identify that particular door?

A. I can.

Q. Will you tell us from what car that door was taken and under what circumstances?

A. Taken from Frank James' car.

Q. Where?

A. At my garage in Mount Ephraim.

Q. By whom?

A. By myself.

Mr. Carrow: I cannot hear the witness, if the Court please.

The Court: Yes; will you speak, Mr. Albertson, somewhat louder than you have been talking?

The Witness: Yes, sir, all right, sir.

The Prosecutor: I offer the door in evidence.

The Court: The door will be received in evidence and marked Exhibit S20.

(Said door is so marked.)

Q. I now show you Exhibit S16 which is a piece of tape and ask if you can inform us what the tape is and what it is used for?

A. That is a piece of upholsterer's tape used for the finish around the cardboard on a Ford car.

Q. Will you indicate on this Exhibit S20 where the tape would go provided there was cardboard on it?

A. The tape would go around the edges.

Q. Was that tape brought to your attention at any time?

A. Yes, sir, it was.

Q. Under what circumstances?

A. For identification.

Q. By whom?

A. Detective Doran and Painter.

Q. Was that on October 22nd?

A. I am not positive of the date.

Q. Well, was it about that time?

A. About October 22nd.

Q. Of last year?

A. Yes, sir.

Q. What did you do with the tape when it was presented to you?

A. I removed the door from the car, took that piece of tape and removed the other tape that I had put around the door and marked each and every upholstering tack, as the marks will show upon the door, before I removed the tape that I put on; then I put the upholstering tacks in the old piece of tape, and it matched up with the original holes, each and every one of them, in this left-hand door.

Q. Was there any exception?

A. One upholstering tack in the tape was torn in the left-hand side of the door in the rear, the bottom.

Q. Was that the only tack missing?

A. That was the only one.

Q. How long was the car at your place of business?

A. From October 6th until the 13th.

Q. By whom was it gotten on October 13th?

A. Frank James.

Q. Did you personally notice whether anyone was with him at the time?

A. I did not.

Q. Under what circumstances did he get the car?

A. Why, I was supposed to deliver the car in Camden to him—I was supposed to call him up at twelve o'clock.

Q. Well, no conversations. Where did you meet him that afternoon?

A. I met him at the barber shop in Mount Ephraim.

Q. Did you have the car there with you?

A. I had the car at the barber shop.

Q. And is that where it was delivered to him?

A. That is where he got the car from; he drove me from there to the garage.

Mr. Carrow: If your Honor please before I cross-examine Mr. Albertson, I would like to move that his whole testimony be stricken out as incompetent and immaterial as affecting this defendant.

The Court: Well, you have exceptions already that would save you.

Mr. Carrow: My only reason is to be sure that I would have a general exception.

The Court: But if you want to be doubly sure, I, of course have no objection to your making that motion, Mr. Carrow, and you can enter it on the record and it will be denied and an exception allowed you.

(Exception noted for the defendant.)

(Signed and sealed accordingly.)

FRANK S. KATZENBACH, JR.,
J. (Seal)
JOHN B. KATES,
J. (Seal)

Cross-examination.

By Mr. Carrow:

Q. Now, Mr. Albertson, you speak of a hole being made in the top of that machine; will you just describe to us the character of the hole and what it was like?

A. Why, it was about two inches long and about an inch and a half crosswise at the top.

Q. And where was it in relation to the front or back of the top of the machine?

A. It was the back.

Q. The back?

A. Of the top, on the left-hand side.

Q. (Showing witness sketch.) If this line represented the back of the top and this the front of the top, will you please draw it and indicate as near as you can the shape of the hole?

A. That would be about it. (Indicating.)

The Court: Speak a little louder, Mr. Albertson.

Q. This is the rear seat?

A. The rear seat; that would be on the left-hand side of the car.

Q. And the angle was in that position?

A. In that position.

Q. The angle of the tear was in that position?
A. Yes.

Mr. Carrow: This is the back, there is the back seat, there is the angle of the tear, here is the front. Do you see that, gentlemen of the jury? This is the back of the top, the back of the machine—

The Prosecutor: If your Honor please, I object to Mr. Carrow testifying to the jury; the witness is in the chair ready to do that.

Mr. Carrow: The witness has testified; I am just showing this to the jury.

The Court: I think that is not improper; I mean to say, I have enough confidence in Mr. Carrow to know that he would not say anything that the witness had not said.

The Prosecutor: I don't think Mr. Carrow would intentionally, but I did not think repetition was necessary.

Mr. Carrow: I just want the jury to get an idea of the character of that rip and the kind of angle it made and its position. There is that line supposed to represent the back seat, and that is where the rip was. This is the front of the car, and the angle, you see, points to the right of the machine and is on the left.

The Prosecutor: Do you wish to introduce that as an exhibit, Mr. Carrow?

Mr. Carrow: No, sir, I think the jury understand it.

The Prosecutor: If your Honor please, I offer in evidence this tape and lining; I am not sure that I did it before, but to be sure—

The Court: Well, my recollection is that they were offered in evidence yesterday, but if my recollection errs they will be received in evidence at this time.

The Prosecutor: They were marked State's Exhibits S16 and S19.

The Court: The tape S16 and the lining S19.

Edna Bintiff, sworn.

By the Prosecutor:

Q. Where do you live?
A. 3737 Frankford Avenue, Philadelphia.
Q. Will you speak a little louder, please?
A. 3737 Frankford Avenue, Philadelphia.
Q. Where are you employed?
A. Keystone Telephone Company.
Q. Where, at what office?
A. West and Burk Street.
Q. In what capacity are you employed?
A. Stenographer.
Q. Where was the office in which you were employed on October 5th?
A. Third and Federal.
Q. Whereabouts at Third and Federal?
A. On Third Street, in back of the Acme.
Q. On Third Street between Arch and Federal?
A. Yes.

Q. On which side of the street, on this side of the street?

A. Yes.

Q. That would be the east side of Third Street, then?

A. Yes.

Q. And midway between Arch and Federal?

A. Yes.

Q. Do you know Raymond Schuck?

A. Yes.

Q. Was he employed at the same office on October 5th that you were?

A. Yes.

Q. Did you see him on the day of October 5th?

A. Yes.

Q. At what time?

A. Between nine and half-past.

Q. Did he leave the office that day?

A. Yes, he did.

Q. About what time?

A. About half-past twelve.

Q. Did you have any conversation with him that day as to where he was going?

A. Well, he told me he was going to the World's Series, Brooklyn.

Q. Did he say at what time he would go, what train he would take?

A. Sometime after twelve.

Q. Did you see him again after he left the office at about twelve-thirty?

A. No, I did not.

Q. When did you see him again?

A. Monday.

Q. The following Monday?

A. Yes.

Q. Had you been at the office the intervening days between Tuesday and Monday, with the exception of Sunday?

A. Yes.

Q. Had he been there to your knowledge on any of those days while you were there?

A. No, he was not.

Q. What days of the week of October 11th was he there?

A. I don't remember.

Q. Was he there each one of the days, or was he absent some?

A. He was absent a few days.

Q. Of that week?

A. Yes.

Q. Then the week of October 18th, was he there?

A. I don't remember.

Q. Do you remember whether he was there or not during the week of October 18th.

A. No, I don't.

No cross-examination.

WILMER C. HILLMAN, sworn.

By the Prosecutor:

Q. Where do you live?

A. Audubon, N. J.

Q. Do you know Raymond Schuck, the defendant in this case?

A. Yes, sir.

Q. How long have you known him?

A. About nine years.

Q. On October 5th last did you see him any place, and if so under what circumstances?
A. Yes, sir; I saw him on the Marlton Pike.

The Court: Just speak a little louder. Can you gentlemen sitting farthest away from this witness hear what he says:

Jurors: We cannot.

The Court: Will you please elevate your voice, Mr. Hillman, so that everyone in the courtroom can hear, and then the jury will be sure to hear.

(Question and answer repeated.)

Q. Whereabouts on the Marlton Pike?
A. In the neighborhood of Stoy Road.
Q. Where is Stoy Road with relation to Ellisburg?
A. About a mile and a half or two miles this side of Ellisburg.
Q. In Camden County?
A. Yes, sir.
Q. Under what circumstances did you see him?
A. I happened to be working there and I glanced up and I just happened to see him.
Q. What was he doing?
A. Running a car.
Q. What kind of a car?
A. Ford.
Q. Did you speak to him?
A. Yes, sir.
Q. Did he speak to you?
A. I didn't notice. I think he did.

Cross-examination.

By Mr. Carrow:

Q. You are not sure?
A. Not positive.
Q. I say you are not sure of whether he spoke to you or not?
A. No, sir.

By the Prosecutor:

Q. Were you able to notice whether there was anyone with him at the time?
A. I think there were.

By Mr. Carrow:

Q. What makes you think so?
A. Well, I just thought there was someone with him, that was all.
Q. You are not positive about that?
A. Not positive. I wouldn't swear to it; no, sir.

By the Prosecutor:

Q. At what speed was the car going, fast or slow?
A. Not very fast.

By the Court:

Q. Mr. Hillman, what hour of the day did you see him?
A. I couldn't tell you that exactly. Sometime during the afternoon.

By the Prosecutor:

Q. Was it in the early part of the afternoon or the later part?

A. I couldn't tell you that. Near the middle part, if I remember right.

ROBERT L. KNOX, sworn.

By the Prosecutor:

Q. Mr. Knox, where do you live?

A. 607 Pine Street.

The Court: You will have to speak a little louder.

The Witness: 607 Pine Street, Camden.

Q. What business are you in?

A. Taxicab.

Q. Where do you operate from?

A. Market Street ferry.

Q. On October 5th last, did you have the defendant in your car?

A. Why, it was there about that date. I won't say positive it was the 5th.

Q. Under what circumstances did you have him?

Mr. Carrow: If your Honor please, the witness has said he would not positively state it was the 5th of October the defendant was there.

The Prosecutor: Well, if the Court please, it does not seem to me that because the witness is as honest as witnesses usually are, and having recogni-

tion of the frailties of the human mind, because he says he cannot say that was the exact date, I do not think that in itself precludes his testimony. On the other hand, if it would appear after he had given his testimony that it was not proper to have received it, I would have no objection to it being stricken out, and I would say this, that the testimony that he will give it is the purpose of the State to introduce statements of the defendant showing the truthfulness of the statement that he is making at this time, or wishes to make.

The Court: The objection of Mr. Carrow only goes, in my opinion, to, perhaps, the weight of the witness' testimony, and I would not exclude it, even though he was not specific as to the dates. It can be commented upon later, or the testimony can be entirely stricken out, but I would not conclude that it was my duty not to let the testimony in. I will try to guide it, Mr. Carrow, if I feel that it has been admitted improperly.

Q. Under what circumstances did you have the defendant in your car

A. Why, he hired the car at Market Street ferry to take him to Kaighn's Point ferry, and when I got there I thought that was where they wanted to go, their destination, and I pulled around on the car track there, and they says, "No, don't stop here, take us right on across the river."

Mr. Carrow: Wait a moment. If your Honor please, you can see how far that is going.

(Answer repeated.)

The Court: Of course, I will strike that out, because it seems to be in the plural, the answer, and it is not wholly responsive to the question. It goes beyond it, and I will strike that answer out.

The Prosecutor: I have no objection.

Q. You say that you had him as a passenger at Federal Street ferry?
A. Yes, sir.
Q. And that you were direced to go to the Kaighn Avenue ferry?
A. Yes, sir.
Q. What took place when you arrived at Kaighn Avenue ferry?
A. Why, they said that they didn't see the party they wanted to see—

Mr. Carrow: That is the same answer.

The Court: That is stricken out.

Q. Who was in the car?
A. The gentleman sitting there, Mr. Schuck.
Q. Who else?
A. Frank James.
Q. What was said by either of them in the presence of the other after they arrived at Kaighn Avenue ferry?
A. Why, they said that they didn't see the parties they wanted to meet, to take them right on across the river.
Q. Did you take them across the river?
A. Yes, sir.
Q. And where did you go with them?
A. To 16th and Market Streets, Philadelphia.

Q. What took place when you arrived at that point?

A. Why, they dismissed me; paid me off and dismissed me.

Cross-examination.

By Mr. Carrow:

Q. Who told you, which one of these young men told you they didn't see the parties they wanted to meet?

A. James.

Q. When you were dismissed who paid you?

A. James.

Q. When you were hired, who hired you?

A. Why, no particular one.

THOMAS F. HELLINGS, sworn.

Mr. Carrow: Now, if your Honor please, I anticipate that the Prosecutor is going to introduce a line of evidence here as to what took place in the City of Philadelphia, and I object to that testimony because the only relevancy it has to the facts in this case, to the commission of this crime and who committed it is so remote. It is immaterial and incompetent what they did after the commission of this crime. It does not make any difference what they did with the money, where they went, who they went with, or anything of that nature, and I object to its admission on the ground that it is immaterial and incompetent. It is not part of the res gestae of the crime itself at all.

The Court: Well, Mr. Carrow, I do not agree with all that you have said, and of course I must rule on the questions as each question is presented, and I will ask the witness not to answer any question that may be asked by Mr. Wolverton if Mr. Carrow objects to it, and then I will rule on each question as it is presented.

By the Prosecutor:

Q. Mr. Hellings, where do you live?
A. Philadelphia; 2341 Montrose.
Q. What was your business on October 5th last?
A. Employed by the Quaker City Taxicab Company.
Q. Did you see the defendant Raymond Schuck on that day?
A. I did.
Q. At what time and place?
A. About ten or ten-thirty in the evening.
Q. Who was with him?
A. At Broad Street station.
Q. Who was with him?

Mr. Carrow: Now, if your Honor please, I object to that question. It is immaterial and incompetent where he was at ten-thirty on the evening of that night or who was with him.

The Court: No, the question will be admitted. Anything that this defendant did after the commission of this crime, if he be the one who committed it, is relevant.

Mr. Carrow: May I have an exception?

The Court: Yes, you may have an exception to this specific question. I will rule on each question as it is presented. This defendant's whereabouts is relevant.

(Exception noted for defendant.)

(Signed and sealed accordingly.)

FRANK S. KATZENBACH, JR.,
J. (Seal)

JOHN B. KATES,
J. (Seal)

The Court: Yes, you may have an exception to this specific question; I will rule on each question as presented. This defendant's whereabouts is relevant.

Q. Who was with him on the evening of October 5th when you saw him?

Mr. Carrow: I enter the same objection, if the Court please.

The Prosecutor: It is the same question.

The Court: Yes, you may answer that, Mr. Hellings.

A. Frank James.

Q. At what place did you first see the defendant on that evening?

Mr. Carrow: I object to that, if the Court please.

The Court: The question will be allowed and an exception granted.

(Exception noted for the defendant.)

(Signed and sealed accordingly.)

FRANK S. KATZENBACH, JR.,
J. (Seal)
JOHN B. KATES,
J. (Seal)

A. At Broad Street station.

Q. And under what circumstances did you come in contact with him at that time?

Mr. Carrow: I object, if your Honor please, for the same reason.

The Court: Yes, the exception will be allowed and the witness will be permitted to answer the question.

(Exception noted for the defendant.)

(Signed and sealed accordingly.)

FRANK S. KATZENBACH, JR.,
J. (Seal)
JOHN B. KATES,
J. (Seal)

A. They engaged the cab.

Q. Who did?

Mr. Carrow: I object to that, if the Court please, for the same reason.

A. I don't distinctly remember.

The Court: Well—

Mr. Carrow: If your Honor please, you can see how I want to object to everything.

The Court: I was going to say, now, these questions are all similar, Mr. Carrow, and of course, I am perfectly willing to give you an exception to each one of the questions, but perhaps your client's rights will be sufficiently protected if I give you an exception to this line of testimony.

Mr. Carrow: Does your Honor want me to make an objection to each specific question?

The Court: No, that I see will perhaps consume too much time, so that I will give you an exception to this line of testimony. If there is anything new develops, of course, I want you for any other reason to enter your objection.

(Exception noted for the defendant.)

(Signed and sealed accordingly.)

FRANK S. KATZENBACH, JR.,
J. (Seal)

JOHN B. KATES,
J. (Seal)

Mr. Carrow: Yes, sir.

(Former question and answer repeated by stenographer.)

Q. That is, you don't know whether it was James or Schuck?

A. I don't remember whether it was James or Schuck.

Q. Did they enter your cab at that time?

A. They did.

Q. And where were they taken?

A. Taken up Broad, around the Hall, and up Broad Street.

Q. Were there any directions given to you by either of them in the presence to the other as to where you should take them?

A. One of them made the remark that he wanted to go to an apartment called the Arlington uptown.

Q. Were you given directions as to the location of the apartment?

A. They were not sure of the whereabouts of the apartment, and I wasn't, either.

Q. Then, what did you do after receiving those directions?

A. I thought that it was uptown, around Diamond Street somewhere, and I went up Broad Street and out Diamond, went out Diamond, and they did not recognize any place there, and I went down Sixteenth to Fairmount Avenue, and they said, "Maybe, I think it is over on Eighteenth Street—"

Mr. Carrow: Now, if your Honor please, I don't think that is strictly fair for this witness to be permitted to say what they said.

The Court: Well, you see, Mr. Carrow, what the witness means is one or the other said, and of course, Mr. Schuck was with Mr. James at that time, so that what either said is relevant, they being together.

The Witness: They were in the back of the cab; I couldn't tell which was speaking.

Q. Did you locate the Arlington Apartment?

A. No, sir, we went over to Eighteenth Street and down Eighteenth Street slowly, and he says, "Maybe we can get a phone." We stopped at a saloon at 18th and Shamokin.

Q. What took place when you reached the saloon?

A. Well, I told them maybe they could get a phone in there, so they got off and went in the saloon.

Q. Did you go in?

A. I did.

Q. How long did they remain in there?

A. About two hours.

Q. And what took place while they were in there—what did they do?

Mr. Carrow: Well, if your Honor please, that is a very broad, general question, and can lead to so much of—

The Prosecutor: Well, I will reframe the question.

Q. You say they went into the saloon?

A. Yes.

Q. And stayed there about two hours?

A. About two hours.

Q. During that time did you notice the actions or words of the defendant, Schuck?

A. Yes, he made several remarks to me, asked me if I had driven him before, and I said I thought I had.

Q. What was that?

A. He asked me if I had driven him before, and I said I thought I had. He said, "Where?" I said I thought I got him from the Bourse building.

Q. From the Bourse station?

A. From the Bourse building.

Q. Oh, yes; go ahead

A. After a while he said, "You are right about the Bourse building." He kept saying to me, "You will take care of us, won't you—you will take care of us?" I said, "Yes, I will take care of you." I did not know what he meant, but he said it anyhow.

Q. Had he been drinking?

A. We were all drinking.

Q. You were all drinking?

A. Yes.

Q. How many were in the party?

A. About four beside myself.

Q. Were the others men or women?

A. Two girls.

Q. Was there any money spent?

A. Quite a bit.

Q. What do you say?

A. Quite a bit.

Q. How was it spent?

A. For the drinks. Schuck gave me $5.

Q. For what reason?

A. Well, after he made the remark—"You will take care of us?" I said, "Sure," and he handed me $5. I don't know, it wasn't for the taxi bill, because I had already been paid for that.

Q. Were there any other remarks passed as to the character of the party?

A. Well, he says James was celebrating his birthday, and he says, "I might as well let him spend his money," he said, "he made me spend when I was celebrating mine."

Q. Who said that?

A. Schuck.

Q. What time did they leave the saloon?

A. About half-past twelve.

Q. Did you go with them when they left there?

A. I left with them in the cab; I took them over to Green Street.

Q. Who went in the cab?

A. Schuck, James and two girls.

Q. Where did you take the party?

A. Over to a house on Green Street.

Q. What took place when you reached the house?

A. They got out of the cab, asked me whether they owed me anything, and I said, "No, it has been paid for," and they says—I asked them if I would see them in the morning; I was to get them a car, they were going to go to New York; I said I was going to get them a touring car.

Q. Who asked for the car in the morning?

A. I don't distinctly remember whether it was Schuck or James, but one of the two. I says, "Will I see you in the morning?" and they said, "Yes, if you get a car come around."

Q. Where did they go after you reached this house, at Green Street?

A. They went into the house.

Q. Who went in?

A. The two girls and Schuck and James.

Q. Did they say, or either of them say, what time you were to meet them the next day?

A. They didn't say; they said, "Come around in the morning."

The Court: That should be—pardon me just a minute—referred to Mr. James or Schuck, there were four at this time, so just reframe your question.

The Prosecutor: Yes, did either Schuck or James say at what time you were to return the next day?

The Court: When they were both together?

Q. Were they both together at the time?
A. They were both together at the time, yes.
Q. Now, when they were both together, did either one of those two suggest what time you should return the next day?
A. I don't remember that they did; I don't remember what time they did say.
Q. When they were both together did either one or the other make a suggestion about the touring car?
A. Yes.
Q. What was that?
A. Why, they asked me if I could get a touring car, and I says, "Yes, I think I can."
Q. Did you ask them for what purpose they wanted it?
A. Well, I did, but I don't exactly remember what they answered. But I mentioned the fact New York; I mentioned New York myself. They said, "All right," so I says, "I will try to get a car in the morning," I says, "I will see about it tonight before I go home."
Q. Did you return the next morning?
A. I did not.
Q. For what reason did you not return?
A. Well, in the first place I couldn't get the car.
Q. Then you haven't seen them since?
A. I haven't seen them until now.

Cross-examination.

By Mr. Carrow:

Q. Mr. Hellings, the defendant was pretty well intoxicated at that saloon, wasn't he?

A. No, not overly intoxicated.
Q. Not over intoxicated?
A. No, not what I would call over his balance.

JOSEPH WENGER, sworn.

By the Prosecutor:

Q. Mr. Wenger, where do you live?
A. My business place, you mean?
Q. Yes.
A. 1211 Walnut.
Q. What is your business?
A. Furs.
Q. On October 7th last did the defendant, Raymond Schuck, come to your shop?
A. Yes, sir.
Q. At what time?
A. In the afternoon.
Q. Was anyone with him?
A. A young lady.
Q. What took place when he and the young lady came?
A. I can't hear.

(Question repeated.)

Q. What took place when he and the young lady came to your shop?
A. You mean I sold the coat to her?
Q. What took place after they got to your shop—what was done—did you make a sale?
A. Oh, they look for a coat.
Q. They were looking for a coat?
A. Yes.

Q. What kind of coat?

A. Hudson seal coat with skunk collar and cuffs.

Q. A lady's coat?

A. Lady's, yes.

Q. Did you show them coats?

A. Yes, sir.

Q. Do you recognize this coat? (Showing witness coat.)

A. Yes, sir, the label is missing.

Q. What do you mean by saying that the label is missing?

A. When I am selling anything I always leave my name on it right here, my label of the business.

Q. Are these marks at the top of the coat?

A. Yes.

Q. The marks of the former presence of a label?

A. Yes, right here; you see there was a label here.

Q. And you say that label had your name and place of business on it?

A. Yes.

Q. Was that label in there when you sold the coat?

A. Positively.

Q. How much did the coat cost?

A. I sold it for $480.

Q. Who paid for it?

A. The gentleman.

Q. The defendant in this case?

A. Yes, sir.

Q. How did he pay you?

A. Why, he came in with the young lady and she tried it on. The only thing she asked him if he likes it, and he says "Yes," and I told him the price and he gave me the cash.

Q. Do you remember how he paid you—was it by check or bank notes?

A. It was cash.

Q. By cash?

A. Yes.

Q. Will you describe the kind?

A. I think he gave me five one hundred dollar bills; I don't remember exactly.

Q. Well, was it bank notes—that is what I am trying to get at—were they bank notes?

A. I can't tell you; I think he gave me hundred dollar bills and I gave him twenty dollars change out of the five hundred.

Q. Then it was paper money, was it?

A. Paper money, yes.

Q. Did you make out any receipts?

A. I certainly did.

Q. Did either of the parties give their name?

A. Why, the young lady's name.

Q. What was it? Before you answer wait a minute. (After consultation between the Prosecutor and attorney for the defendant.) What was her name?

A. Miss McGarvey.

Cross-examination.

By Mr. Carrow:

Q. Had you seen this defendant before that day?

A. Before that day? He come in that day with the young lady and buy that coat the same day; that is the only time I seen him.

Q. Had you ever seen either one of them before?

A. I beg pardon?

Q. Had you ever seen either one of them before?

A. The young lady came in a couple of days ahead to look for a coat.

Q. What day was that?

A. I couldn't tell you exactly the day, but I know she came in.
Q. What was the day they bought it?
A. The 7th of October.

The Prosecutor: We offer the coat in evidence and ask that it be marked Exhibit S21.

The Court: The coat will be received in evidence.

(Said coat is marked on the lining Exhibit S21.)

GEORGE JAUSS, sworn.

By the Prosecutor:

Q. Jauss, where do you live?
A. Philadelphia.
Q. What business were you in on the fifth of October last?
A. Quaker City Taxicab.

Mr. Carrow: Now, if your Honor please, I wish to make the same formal objection to this line of testimony that I did in respect to Mr. Hellings' testimony, the other taxicab man who testified, on the ground that whatever was said or done by these defendants at that time, at the time of which this young man will testify, is incompetent and immaterial. It is not part of the res gestae.

The Court: Only as to what—you say you only want to limit that as to what was said and done?

Mr. Carrow: What was said and done, where they went, and who they were with.

The Court: Well, I thought you wanted to make it a little bit broader than that. Now, I consider that to be relevant on many grounds. I suppose that you do not want me to state the grounds, do you?

Mr. Carrow: No, it is hardly necessary, I think. May I have an exception?

The Court: You may have an exception, Mr. Carrow.

(Exception noted for defendant.)

(Signed and sealed accordingly.)

FRANK S. KATZENBACH, JR.,
J. (Seal)

JOHN B. KATES,
J. (Seal)

Q. On October 7th last did you see the defendant, Raymond Schuck?

A. Yes, sir; sometime late in the evening.

Q. Where?

A. 1509 Poplar Street.

Q. Who was with him?

A. Frank James and some young ladies.

Q. Was Schuck in your company that evening?

A. No, sir.

Q. How long was he with you?

A. A short time.

Q. During the time that you saw him, where was it and under what circumstances?

A. At 1509 Poplar, when I was about ready to be dismissed.

Q. Where had you—you say you were about to be dismissed?

A. Yes, sir.

Q. Do you mean by that that Schuck was not with you when you first had the car?

A. Yes, sir.

Q. Then Schuck came afterwards?

A. Yes, sir.

Q. I see. And under what circumstances did you meet him?

A. Being as I was there when he came in.

Q. You were inside with whom?

A. With Frank James.

Q. And who else?

A. And some young ladies.

Q. Where was that?

A. 1509 Poplar.

Q. That was the evening of October 7th?

A. Yes, sir.

By Juror No. 7:

Q. Did you say 59?

A. 1509.

By the Prosecutor:

Q. Then you say that Schuck came in?

A. Yes, sir.

Q. Was anything said by him when he came in?

A. Not outside of there was a remark passed that he was—

Mr. Carrow: Wait a minute. I do not want to get any remarks passed by somebody else rather than the defendant.

The Prosecutor: Not unless the defendant was present.

Mr. Carrow: The witness was going to testify to some remark that was made by someone other than the defendant.

The Court: Well, I think that would be relevant, any remark made in the presence of the defendant that he could hear. Of course, it may have very slight bearing on the case, but it is admissible, in my opinion.

Mr. Carrow: May I have an exception, please?

The Court: Certainly.

(Exception noted for defendant.)

(Signed and sealed accordingly.)

FRANK S. KATZENBACH, JR.,
J. (Seal)

JOHN B. KATES,
J. (Seal)

Q. I don't want anything said except what was said either by Mr. Schuck or someone in his presence, nothing that was said before he came into this company.

A. Yes, sir.

Q. Do you understand?

A. Yes, sir.

Q. Now, after Mr. Schuck joined the company at the time when you say you were about to be dismissed, what if anything did he say when he arrived, or anyone say to him?

A. The remark was passed that he was a fine one for staying away so much length of time.

Q. What did he say?

A. He says he couldn't help it, he was busy.

Q. Did you leave shortly after that?

A. Yes, sir.

Q. Were any instructions given either by James or Schuck in the presence of each other?

A. Yes, sir; to return the next day.

Q. At what time?

A. I just can't remember the time. Sometime in the morning.

Q. Did you return?

A. Yes, sir.

Q. Whom did you see at the place?

A. Ray Schuck, Frank James and some girls.

Q. What took place after you got there?

A. They had left the house, got into the car, and I had dismissed one girl at 15th and Jefferson and another girl at 15th and Montgomery Avenue.

Q. Was the defendant with you in the car when you say you dismissed those girls?

A. Yes, sir.

Q. What do you mean by dismissed them, that they left the car?

A. They left the car, yes.

Q. Then where did Schuck and James go?

A. I was directed then to go for a ride anywhere I suggested.

Q. Where did you ride?

A. Up Broad Street to what they call the Northeast Boulevard for a short distance, turning around

in a side road and heading back in to Fortside Inn, stopped at Fortside Inn and had dinner.

Q. Then where did you go?

A. Was directed to follow back in to the city again, which I did, coming down Broad Street; got as far as Broad and Euclid Avenue, was stopped at Broad and Euclid Avenue and they had met a young lady.

Q. What took place when they met the young lady?

A. Frank James got out and talked to the young lady a few minutes, Ray Schuck sitting in the car, passing the remark to me—

Q. Who passed the remark?

A. Ray Schuck; that he was sorry that he didn't get out and talk to the young lady.

Q. Then where did you go or what did you go?

A. Stayed there for a few minutes, leaving the young lady there, carried on downtown again into 15th and Green. We stopped and I was directed to go back to the garage for gas and oil, which I left Ray Schuck and Frank James at a Green Street address. From there I also did so, went to the garage—

Mr. Carrow: Now—

Q. Not what you did when they weren't with you?

The Court: Yes. I do not think he answered anything, did he? If he did, you will strike it out, on that question.

Q. After you left them at the Green Street address, did you return?

A. Yes, sir.

Q. How soon?

A. In about fifteen or twenty minutes.

Q. Whom did you see when you got there?

A. Ray Schuck and Frank James and a young lady.

Q. What took place then?

A. They came out, got into the car, went back to the corner of 15th and Berks, where they had met a young lady.

Q. Who was the young lady, do you know?

A. No, sir.

Q. I don't mean the name, but was it the same one they had previously talked to?

A. Yes, sir.

Q. Then what took place?

A. She had got into the car and rode on down through town got into town, going straight down Broad Street. I was stopped at Broad and Spruce to telephone, which the young lady got out and telephoned.

Q. Where did you go from there?

A. From there we carried on down Broad Street to Wolf, over Wolf to 12th, and stopped at the southwest corner of 12th and Wolf.

Q. Then what took place?

A. They had met another young lady there.

Q. Who do you mean by they?

A. Ray Schuck and Frank James.

Q. Then what took place?

A. Met the young lady and a gentleman. Getting into the car I returned up Broad Street, up Broad to Chestnut, east on Chestnut to the Adelphia Hotel, where I dismissed him there.

Q. When you speak of you dismissing him, do you mean you directed him to get out, or did he get out?

A. No, he got out.

Q. Is this "dismissing" a phrase that is used amongst taxi men?

A. Amongst us fellows; yes, sir.

Q. Meaning that is where your fare left you?

A. That is where a party had dismissed us, right there, yes.

Q. Then who remained in the company?

A. Ray Schuck, Frank James and two young ladies.

Q. Where did you go?

A. Through the Lincoln Drive on the way to Three Tuns.

Q. Where is Three Tuns?

A. Somewhere a distance of five, perhaps six miles from where we had been in the afternoon for dinner.

Q. Is that a road-house—

A. Yes, sir.

Q. —or hotel or something of that sort?

A. It is a road-house and a hotel.

Q. What took place after you reached Three Tuns?

A. After reaching Three Tuns it had been closed. Returning back into the city again.

Q. Anything happen on the way back?

A. Yes, sir.

Q. What?

A. I had a blow-out on the Lincoln Highway.

Q. Did either of the defendants make any reference to the blow-out?

A. Yes, sir.

Q. What?

A. Frank James had paid me the sum of $10 for changing the shoe.

Q. Before, you mean?

A. When I changed it.

Q. Yes, but had there been a puncture before?

A. Yes, sir.

Q. And he had paid you $10?

A. Yes, sir.

Q. What conversation took place between you and James and Schuck relative to the punctures?

A. Frank James says to Ray Schuck the next one that he would have to pay, which I passed the remark saying that the third one was down, he could pay it right away.

Q. And who paid for it?

A. Ray Schuck.

Q. How much?

A. Ten dollars.

Q. For the shoe that was on its way to be down?

A. Yes, sir.

Q. Then where did you go?

A. Back on in to the city, stopping at a hotel on 13th Street above Walnut. Receiving no rooms there, stopped at a hotel on Walnut Street above 13th. Receiving no rooms there, was directed to go to 15th and Chestnut to the Colonnade Hotel.

Q. What took place when you reached the Colonnade Hotel?

A. I was sent in to find out whether they had any rooms. Came back and told them they did.

Q. Then what took place?

A. They had went in and stayed for the evening.

Q. Who went in?

A. Ray Schuck, Frank James and the young ladies.

Q. Did you see whether they registered or not?

A. Yes, they registered.

The Prosecutor: If your Honor please, I have the Colonnade register sheet here for that evening, and counsel does not object to the introduction of that in evidence.

The Court: Very well. It will be marked and received in evidence under the circumstances.

(Register sheet marked S22.)

The Prosecutor: The Exhibit S22 bears upon it sundry names, two of which are F. J. Johnson and wife, Chicago, Ill.; Mr. and Mrs. R. W. Scovell, Chicago, Ill., the latter being the name which the defendant used.

Q. Did you leave them at the hotel?

A. Yes, sir.

Q. At about what hour?

A. Sometime also late in the evening.

Q. When did you see them again? By "them" I mean Schuck and James?

A. I was directed to return for them the next morning at eleven o'clock, which I did.

Q. Who remained at the hotel when you left?

A. Ray Schuck, Frank James and the young ladies.

Q. Did you return the next morning?

A. Yes, sir.

Q. Who was there?

A. Ray Schuck, Frank James and only one young lady.

Q. Did you have any conversation with Schuck at that time, or with James in Schuck's presence, or receive any directions as to what to do?

A. Not outside of, I don't believe, of them going for another ride.

Q. Who went for the ride?

A. Ray Schuck and Frank James.

Q. Was anything said by either of them in the presence of the other as to the whereabouts of the other young lady?

A. No, sir.

Q. Who went on the ride?

A. Ray Schuck and Frank James.

Q. Where did you go?

A. Up Broad Street quite some distance, turning over in to Overbrook, turning down over 63rd Street, we stopped at a drug store at 63rd and Race, on the northeast corner.

Q. Where did you go from there?

A. From there I had came from the drug store and went to the northwest corner of 63rd and Market, where I had dismissed Ray Schuck.

Q. That is, Ray Schuck left your car there?

A. Yes, sir.

Q. About what time was that?

A. Close on to noon.

Q. Did you hear any remarks passed between them as to whether they would meet again?

A. Yes, sir.

Q. What?

A. To meet Ray Schuck at 63rd and Market the same evening at seven o'clock.

Q. Did you go to 63rd and Market that evening at seven o'clock.

A. Yes, sir.

Q. With whom?

A. Frank James.

Q. Did you see Ray Schuck there?

A. Yes, sir.

Q. Under what circumstances?

A. He had came there in another smaller car to 63rd and Market.

Q. Now, just describe what took place when he came in the smaller car?

A. The car drove up alongside of mine, stopping, and Frank James got out of my car, getting into his, sitting there for a few minutes, and then dismissed that car and returned into mine.

Q. Was the other car a taxi?

A. Yes, sir.

Q. Then after that car was dismissed you say they got into your car?

A. Yes, sir.

Q. Who was in your car at the time?

A. One young lady.

Q. Did Schuck have anything with him?

A. A package.

Q. What kind of package?

A. An ordinary paper package.

Q. What did he do with it?

A. Gave it to Frank James.

Q. What did James do with it?

A. Put it in a black handbag which was already in the car.

Q. Where did they go?

A. Turned then, 63rd and Walnut, down Walnut to 52nd and Walnut, where Ray Schuck left the car again.

Q. Did he say where he was going?

A. No, sir.

Q. Were any arrangements made to meet him again?

A. No, sir, not to my knowledge.

Q. Then, you have not seen Schuck since that?

A. No, sir.

Cross-examination.

By Mr. Carrow:

Q. Mr. Jauss, do you remember, I think it was the second day, you testified about, on your way back from Fortside Inn, after Schuck and James had been out there to lunch, you met some young lady?

A. Yes.

Q. Where was that?
A. Broad and Euclid Avenue.
Q. About what time in the afternoon?

The Prosecutor: Did he testify it was in the afternoon, Mr. Carrow?

The Court: He said it was after lunch, so I guess Mr. Carrow had a right to assume it was in the afternoon.

A. I suppose it was in the neighborhood of around four or perhaps a little after four.
Q. Did that young lady get in your car?
A. At that time, sir?
Q. Yes.
A. No, sir.
Q. She did not?
A. No.
Q. Are you sure about that?
A. Positive.
Q. How long after that was it until she did get in?
A. I couldn't just exactly state the exact time, perhaps, we will say three quarters of an hour, perhaps an hour.
Q. Well, in about the same time?
A. About, yes.
Q. Now, when she did get in the car do you know where this defendant was sitting—do you remember that? Was he sitting up front with you?
A. I just don't remember, sir.
Q. Do you remember the conversation that took place between these three people almost immediately after this girl got in the car?

A. I couldn't say I did that either, sir, because it is not our custom to listen to conversations that is held in the car that does not concern us.

Q. Do you know—can you remember about what condition this defendant was in at that time?

The Prosecutor: What kind of condition? I object to the general question; it might refer to financial condition, condition of health—

Mr. Carrow: The condition of mind or body?

The Court: Well, of course, that must be prefaced first as to whether the witness noticed the condition of mind or body.

Mr. Carrow: I asked him, did he notice—that is what I want to know.

A. I didn't take no particular notice, no, sir, of anything.

Q. Do you notice whether or not he was crying?

A. I didn't notice that either.

Q. Did you hear anybody make any remarks about it?

A. No, sir, I did not.

By the Prosecutor:

Q. Was there anything in his manner out of the ordinary?

A. Not as I noticed, sir.

WILLIAM CUTTS, affirmed.

By the Prosecutor:

Q. Mr. Cutts, where do you live?
A. Tabernacle.
Q. Were you at Irick's Causeway on October 16th last?
A. Yes, sir.
Q. Did you find anything there?
A. Yes, sir.
Q. What?
A. I found glasses and a case.
Q. Is that the eyeglass and case that you found?
A. Yes, sir.
Q. Where did you find them?
A. In the bottom of the creek.
Q. Which side of the road?
A. On the west side of the lower side of the bridge.
Q. That would be on the left-hand side of the road running from Tabernacle to Sooy's corner?
A. No, sir—yes, on the left-hand side of the road running from Tabernacle to Sooy's corner.
Q. And on which side of this stream of water, on the Tabernacle side or on the Sooy's corner side, or was it in the water?
A. Neither one, it was in the water, in the bottom of the creek.
Q. How far away from this little bridge?
A. Not over two feet from the end of the bridge down to the creek, that is, two feet, I mean, from the bridge, and then dropped down into the creek.

The Court: Do you want to cross-examine the witness, Mr. Carrow?

Mr. Carrow: Not on that particular point, if your Honor please, but there are a few questions that I would like to ask this witness, and I presume for his own convenience, if the Prosecutor has no objection, I could ask him now.

The Prosecutor: Well, if your Honor please, I think in the orderly procedure of the trial it would probably be better—

The Court: Well, of course, if it is not cross-examination, I cannot—

Mr. Carrow: It is not, no, sir.

The Court: Well, then, the Prosecutor's objection, of course, is well taken, the witness will remain.

The Prosecutor: I offer this exhibit in evidence.

(Said case containing eyeglasses is marked Exhibit S23.)

The Court: Well, if there is no objection the case and glasses will be received in evidence.

August Hilden, sworn.

By the Prosecutor:

Q. Mr. Hilden, where do you live?
A. I live in National Park.
Q. Do you have a business in Camden?
A. Yes, sir.

Q. Where is it?
A. 824 Broadway.
Q. What is your business?
A. Florist.
Q. Florist?
A. Yes, sir.
Q. Do you know the defendant, Raymond Schuck?
A. Yes, sir, I do.
Q. Did he in the month of October purchase a plant at your place?
A. He purchased a plant I couldn't say if it was in October, but still it was shortly before I read in the paper—
Q. You mean shortly before or shortly afterward?
A. Or shortly after—no, before he purchased the plant, before that I read in the paper—

Mr. Carrow: Well, if your Honor please, I object to this.

The Court: Well, of course, that answer will be stricken out because it is not intelligible. He does not say what he read in the paper or anything of that kind. Suppose that you just reframe the question, Mr. Wolverton, and perhaps you had better just ask just one thing in each question.

Q. Did you read in the paper of the finding of Mr. Paul's body?
A. Yes, sir.
Q. With relation to when you read of the finding of Mr. Paul's body, was it before or after that that Schuck had been to your place?
A. I think it was after.
Q. After you read it in the paper or before?
A. After.

Q. You mean he was in your place after?

A. Well, he wasn't in the place after I read it. No, that is right—you are correct there—really to say, speaking, if you will let me speak personally my feeling—

Mr. Carrow: Well, now—

The Court: No, no, you must answer, Mr. Hilden, the questions asked by Mr. Wolverton, you know who Mr. Wolverton is; now, you just answer to the best of your ability the questions asked by Mr. Wolverton, and do not say anything except just what is necessary to answer that particular question that he asks you.

Q. When was Raymond Schuck in your place, before you read of the finding of Paul's body or afterward?

A. I would say before.

Q. How much did he pay for the plant?

A. One dollar.

Mr. Carrow: Pardon me, I object to that question, if the Court please, as extremely leading.

The Prosecutor: What, how much did he pay for it?

Mr. Carrow: Mr. Stenographer, will you kindly read that question?

(Question repeated.)

Mr. Carrow: There was no testimony that he bought anything.

The Prosecutor: I thought he had previously stated that.

The Court: No, I will strike out the answer and you can ask with reference to the transaction.

Q. For what purpose did he come into your place of business?
A. For to buy one plant.
Q. Did he buy a plant?
A. Yes, sir.
Q. Did he pay for it?
A. Yes, sir.
Q. How much?
A. One dollar.

Cross-examination.

By Mr. Carrow:

Q. Was that before or after you read about the finding of Mr. Paul's body in the paper?
A. It was before.
Q. Are you sure about that?
A. Well, as near as I—when I read it in the paper—
Q. Now, wait a minute; are you sure about that, Mr. Hilden?
A. No, I can't—
Q. You can't swear whether it was before or after, can you?
A. I cannot.
Q. Now, when did you read that in the paper about the finding of Mr. Paul's body?
A. Well, I couldn't even say that; I didn't pay enough attention.
Q. Was that in November?
A. I couldn't say.

LOTTIE WEYLAND, sworn.

By the Prosecutor:

Q. Where do you live?
A. 1319 Mount Ephraim Avenue.

The Court: Would you mind just speaking a little louder, Mrs. Weyland, so that all these gentlemen on your left can hear?

Q. What business were you conducting on October 11th of last year?
A. The hardware business and house furnishing goods.
Q. Do you know Raymond Schuck?
A. I know him by coming in my store.
Q. Does he live in your neighborhood?
A. He lives in the next street to me.
Q. Did he come there at that time and make a purchase?
A. He came in my store, but at what time—it was in the early part of October, but I really couldn't swear to the date.
Q. What purchase did he make?
A. A coal shovel, a fire shovel, about something like that one there.
Q. Is this the shovel?
A. I sold him one like that, a thirty cent shovel; that is like the shovel I sold him.

Mr. Carrow: I object to that, if the Court please.

The Court: No, I think that a witness is permitted to say that a thing is like, similar to. Of course, some of these things could not be absolutely identi-

fied, they are made in such vast quantities that one possibly is an exact duplicate of the other. I think that is admissible.

Q. How much did he pay for it?
A. Thirty cents.

No cross-examination.

The Prosecutor: I offer this in evidence as an exhibit.

Mr. Carrow: I object to the offer of that shovel, if your Honor please. It has not been identified as being the shovel that the defendant purchased.

The Prosecutor: I will withdraw it just at this time. It is our purpose to prove later on that the defendant did purchase a shovel there, by his own statement. I did not think there would be any objection to it, in view of that fact.

The Court: The offer to have it marked as an exhibit is then withdrawn.

The Prosecutor: That will be S24 for identification.

The Court: Yes. It will be marked S24 for identification.

(Shovel marked S24 for identification.)

HARRY G. ROBINSON, sworn.

By the Prosecutor:

Q. Mr. Robinson, where do you live?
A. 1257 Park Boulevard, Camden.
Q. Do you know the defendant Schuck?
A. Yes, sir.
Q. How long have you known him?
A. About ten years.
Q. On October 11th last did you see the defendant Schuck, and did he make any request of you?
A. Yes.
Q. What was it?
A. For the loan of my automobile.
Q. Did he state for what purpose?
A. To do an errand, I believe.
Q. What time of the afternoon did he get your car?
A. Somewhere near four o'clock in the afternoon.
Q. Did you see him again that afternoon?
A. No, sir.
Q. What did you say?
A. No, sir.
Q. Did you see him on Mt. Ephraim Avenue that afternoon?
A. Well, I believe I did.

Mr. Carrow: If your Honor please, I object to the leading character of the Prosecutor's question.

The Prosecutor: I will admit that was leading, and the reason was—

The Court: It was, of course, a leading question, but I take it that the Prosecutor asked it to recall something to the witness' mind that of course was

perhaps not very material rather an immaterial matter. He has just asked him whether he saw him on that afternoon, wasn't it?

The Prosecutor: Yes, sir; on Mt. Ephraim Avenue.

The Court: Of course, leading questions are within the discretion of the Court, and I think perhaps the Prosecutor was within his rights in asking that question, and I will permit it.

Q. Did you?
A. I believe I did. I am sure I did.
Q. Where?
A. On Mt. Ephraim Pike, right in front of the Homeopathic Hospital.
Q. Where is the Homeopathic Hospital with relation to Evergreen Cemetery?
A. Why, I guess it is one mile distant.
Q. With relation to Mt. Ephraim Avenue, where is the Evergreen Cemetery? On what street does it face?
A. I think it is located at Mt. Ephraim Pike and Ferry Avenue.
Q. And on what street is the entrance, the main entrance to the cemetery?
A. Mt. Ephraim Pike.
Q. And on what is the Homeopathic Hospital?
A. Mt. Ephraim Pike.
Q. And on which side of the cemetery, the far side away from the city or towards the center of the city?
A. Which side of the cemetery is what?
Q. Yes, the Homeopathic Hospital?
A. To the north or towards the City of Camden.
Q. And about what time in the afternoon did you see him?

A. Around five o'clock.

Q. What direction was he going?

A. He was going towards the cemetery.

Q. When he borrowed the car did he say how long he wanted it?

A. He said he would return it that night.

Q. Did he return it?

A. No, sir.

Q. When was the car returned?

A. The next day at noon.

Q. Were you paid for the use of the car?

A. I wasn't paid personally. There was some money left in our house when he returned. I had returned to my place of employment.

Q. Now, on October 25th or thereabouts, did you have any transaction with Mr. Schuck with relation to the car?

A. He borrowed my car, yes, sir; I loaned it.

Q. For what purpose?

A. Just to do an errand, he said.

Q. When did you get your car back?

A. I believe on the next Friday.

Q. Were you paid anything by the defendant for the use of the car during that time?

A. Yes, sir.

Q. What?

A. Fifty dollars.

Q. Did he make any explanation to you of where he had been with the car and not having returned it as soon as he had stated when he took it?

A. He said he was very sorry he had kept it away, but he went down to Newport for his health or to rest up or something.

Q. Do you remember the fact of the disappearance of David Paul being published in the papers?

A. Yes, sir.

Q. Do you remember the fact of his body being found being published in the papers?

A. Yes, sir.

Q. Do you have in mind the publication of articles stating that James was under arrest at the City Hall?

A. Yes, sir.

Q. During the time, any time after the disappearance of Paul until the arrest of Mr. Schuck, did you have any conversations with him concerning the disappearance of Paul or the part he or James, if any, had in it?

A. Only that I asked him if he had anything to do with it.

The Court: Speak a little louder.

A. I asked him if he was connected with it in any way and he said no, he wasn't acquainted with Mr. Paul.

Q. What else did he say?

A. Not anything as I know of, not anything in particular.

Q. Did he say anything relative to James' connection?

A. He said he didn't think Frank had anything to do with it.

Q. Could you give us his words or the language that he used in describing James?

A. Not the exact words, I don't think.

Q. How did he come to make that statement to you? Did you ask him the questions, or did he volunteer it?

A. I asked him.

Q. How did you ask him? In what way, to cause a comment from him as to James as well as himself?

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A. Well, knowing that Frank James was arrested, I asked him if he was connected with it in any way. That is about the way I come to talk about it.

Q. And just what did he say?

A. He says, no, he was not acquainted with Mr. Paul.

Q. And how did he come to make the remark about James? Did you ask him whether James had anything to do with it?

A. I asked him if he thought Frank had anything to do with it, and he says no, he was perfectly innocent.

Q. You say that he said he didn't know Paul. Did he make any further statement concerning that, as to whether that meant that he did not—did he say whether he knew Paul personally or not?

A. He said he did not.

Q. Did he know what he looked like?

A. No, sir; he said he didn't know what he looked like.

Q. You and Raymond have been friends, have you not, for years?

A. Yes, sir.

Cross-examination.

By Mr. Carrow:

Q. Mr. Robinson, on the first day that the defendant borrowed your car, you stated it was along about four o'clock in the afternoon. Is that correct? Wasn't it between twelve and one o'clock?

A. No, I think it was about four o'clock.

Q. You say it was about four o'clock?

A. If I can remember right, I think it was about four.

Q. You say you met him later on Mt. Ephraim Avenue about five o'clock?

A. On the first time?

Q. Yes.

A. One of the days that he borrowed the car I met him on Mt. Ephraim Avenue. I won't say whether it is the first time or the second.

Q. You stated that in your direct examination, that it was the first day that he asked you for the car about four o'clock, and then later about five o'clock you saw him on Mt. Ephraim Avenue, and I thought you were a little mistaken, and that is the reason I am calling your attention to it.

The Prosecutor: I object to the comment of counsel for the defendant as to what his thoughts were in the matter.

Q. You don't remember exactly?

A. Don't remember whether it was the first time or the second time.

CHRISTIAN DUPONT, sworn.

By the Prosecutor:

Q. Mr. DuPont, where do you live?

A. 1213 Chestnut Avenue.

Q. What town?

A. Woodlynne.

Q. Where are you employed?

A. Evergreen Cemetery.

Q. What position do you have at Evergreen Cemetery?

A. As foreman.

Q. On Sunday, November 7th, was your attention directed to a grave or burial lot dug up?

A. No, sir, because I wasn't at the cemetery.

Q. On Monday morning, November 8th?

A. On November 8th; yes, sir.

Mr. Carrow: I seriously object to the manner in which the Prosecutor is framing these questions. I think those answers are very material and they should come from the witness voluntarily without any suggestion from the Prosecutor.

The Prosecutor: In this Evergreen Cemetery I suppose there are five thousand burial lots and I do not want to ask as to all of them. There is only one I am interested in, and I have directed his attention to that.

The Court: I think a leading question is permissible in order to bring the witness up to the thing concerning which he is to testify, and of course I take it that Mr. Wolverton on any material question will not ask any leading question. Will you speak a little louder, Mr. DuPont?

Q. Who is the owner of lot 490N?

A. Charles Scott.

Q. And is that the lot to which your attention was directed on November 8th?

A. Yes, sir.

Q. Who is Charles Scott?

A. Well, he is the owner of lot No. 490N.

Q. What is it?

A. He is the owner of lot 490, Section N.

Q. Do you know him?

A. No, sir.
Q. Do you know who is buried in the lot?
A. There is Charles Scott, Emma Scott, and another Charles Scott, I presume the child of Charles and Emma Scott; and some other children, and the infant of Raymond Schuck.
Q. And an infant child of Raymond Schuck?
A. Yes, sir.
A. The defendant in this case?
A. Yes, sir.

No cross-examination.

KENNETH A. WARD, sworn.

By the Prosecutor:

Q. Mr. Ward, where do you live?
A. Brooklawn.
Q. Where are you employed?
A. Brunswick Balke Collander Company.
Q. Have you an automobile?
A. Yes, sir.
Q. Did you have one on the morning of October 13th?
A. Yes, sir.
Q. What kind of car?
A. Dodge roadster.

The Court: Speak a little louder, please.

Mr. Carrow: I can't hear you, Mr. Ward.

The Witness: Yes, sir, a Dodge roadster.

Q. Did you loan the car to anyone?
A. No, sir.
Q. Did you turn the car over to anyone for any purpose?
A. Yes, sir.
Q. Who?
A. Frank James.

Mr. Carrow: Now, if your Honor please, I object to that question and ask that the answer be stricken out as incompetent, and immaterial as regarding this defendant. There is no testimony that the defendant was there, that it was done in his presence.

The Prosecutor: Well if your Honor please, of course the question and answer that has been given by the defendant won't do any harm to the defendant as far as it has gone if nothing else appears. I have no objection, however, to stating what it is my intention to prove by this witness, and to reiterate the fact that the circumstance is one that is admitted by the defendant in a statement which we subsequently intend to put in evidence.

Mr. Carrow: I prefer not to have the Prosecutor state what he wishes to prove by this witness.

The Prosecutor: That is the reason I did not do it.

The Court: I think, Mr. Carrow, I will dispose of the matter this way: Of course, this question and answer does not seem as yet to have any relevancy, but of course it may be connected with some matter that would have relevancy with the case, and if I find that it has not, I will strike the testimony out.

Mr. Carrow: You mean at the conclusion of this witness' testimony?

The Court: Well, at the conclusion of the case, if it is not connected.

Q. When did you give the car to Frank James?
A. In the morning.
Q. I don't want any conversation between you and James; when did you give it to him?
A. In the morning.
Q. When did you get it back?
A. That evening.

No cross-examination.

Mr. Carrow: Now, if your Honor please, I ask that this witness' testimony be stricken out on the ground that it is incompetent and immaterial. I take it that it is the law as established in the Herbert case in Atlantic County that any acts or statements of one conspirator in relation to a conspiracy that has been completed is incompetent as against the other unless it was made in the presence of the other co-conspirator.

The Court: Well, I am not taking any exception to that statement as being a statement of the law, but I do take exception to its application to this matter. You see, if the mere fact that Mr. Ward having turned his car over to Mr. James on the morning of October 13th, and received it in the evening of October 13th—if that is all that occurs in this case you have neither been harmed nor neither would I permit, if you made a motion at the conclusion of the case, the testimony to stand; but, of course, the State

cannot always show by one witness what the relevancy of a particular line of testimony may be. Now, supposing that later in the day of October 13th your client has had something to do with this car; you can see then that that might become relevant. Of course, I am not saying that that is the situation, but if that situation should develop, then of course this would be relevant, and it would be evidence. I will permit you to renew your motion, and you will lose no rights.

Mr. Carrow: Thank you.

HERBERT R. NICHOLSON, sworn.

By the Prosecutor:

Q. Mr. Nicholson, where do you live?
A. Stratford, New Jersey.
Q. What business are you in?
A. Garage.
Q. On October 13th last did you have any business transaction with the defendant, Schuck?
A. I did.
Q. What was that transaction?
A. I sold a rear cushion.
Q. When you speak of a rear cushion, for what kind of car was the cushion?
A. A Ford.
Q. Was it paid for?
A. It was.
Q. By whom?
A. Mr. Schuck.
Q. How much?

A. $10.00.
Q. Is this the cushion? (Showing witness cushion.)
A. (After carefully examning same.) Yes, sir.
Q. Did you afterward see that cushion?
A. Did I afterward?
Q. Yes.
A. Yes, sir.
Q. Where?
A. In a car.
Q. What kind of car?
A. A Ford car.
Q. Where was the car?
A. Mount Holly.
Q. Do you personally know whose car it was?
A. Yes, sir.
Q. Whose car was it?
A. Frank James.

The Prosecutor: We offer the seat in evidence.

Cross-examination.

By Mr. Carrow:

Q. How do you know that is the seat that you sold, Mr. Nicholson?
A. Got my initials on it.
Q. Were they put on there by you?
A. Positively, yes.
Q. When?
A. When I was marking different articles.
Q. Before you sold it?
A. Oh, yes, I also have another mark here I can go by.

The Prosecutor: We offer that in evidence and ask that it be marked Exhibit S25.

The Court: The seat will be received in evidence and marked S25.

(Said seat so marked.)

HARRY REEVES, sworn.

By the Prosecutor:

Q. Mr. Reeves, where do you live?
A. Medford, New Jersey.
Q. Where were you employed on October 14th last.
A. E. P. Warner.
Q. In what capacity?
A. Hardware business.
Q. What is it?
A. Hardware business.
Q. Does Mr. Warner keep a store?
A. Yes.
Q. What kind of store?
A. Well, hardware and everything that goes with the hardware business.
Q. Was the defendant, Schuck, in that place of business October 14th last?
A. Yes, sir.
Q. For what purpose?
A. He came in and bought a rake, the first thing he bought.
Q. Is that the rake? (Showing witness rake.)
A. Yes, sir.

Q. Was anything else purchased?
A. A couple of spades, shovels.
Q. Is that one of the spades? (Showing witness spade.)
A. Yes, sir.
Q. How many spades were purchased?
A. Two.
Q. What did the rake and spades cost?
A. $4.25.
Q. Was anyone with Schuck at the time?
A. James was with him.
Q. Was this morning or afternoon?
A. Afternoon.

Cross-examination.

By Mr. Carrow:

Q. Had you ever seen this defendant prior to that time?
A. Not to that time, no, sir.
Q. Have you ever seen him since?
A. I have seen his pictures, though.
Q. Those published in the newspapers?
A. Well, they were in the newspapers, some of them, and pictures brought to my property, my place.
Q. How do you identify those articles as being the articles purchased from you?
A. I know my figures on that shovel there.
Q. You made figures on the shovel—how about the rake?
A. Figures on the rake, too.
Q. Who bought them?
A. James.
Q. Was this defendant in the store with him?

A. Yes, sir.
Q. How much did you say was paid for them?
A. $4.25 was the price of them.

By the Prosecutor:

Q. Who carried them out?
A. Schuck.
Q. And was Schuck afterward brought to your place for identification?
A. Yes, sir.
Q. Did he admit in your presence that he was there when they were bought?
A. Well, he said I was the man that sold them to him.

The Prosecutor: If your Honor please, I offer the rake in evidence and ask that it be marked Exhibit S26.

The Court: It will be received in evidence and so marked.

The Prosecutor: And the shovel I also offer in evidence and ask that it be marked Exhibit S27.

The Court: The shovel will be received in evidence and marked S27.

(Said rake and shovel are marked respectively Exhibits S26 and S27.)

HERBERT GROVER, sworn.

By the Prosecutor:

Q. Mr. Grover, where do you live?
A. Medford, N. J.
Q. On October 20th last were you in the neighborhood of Tabernacle?
A. Up that way.
Q. Did you find anything?
A. A rake.
Q. What rake?
A. Garden rake.
Q. Is that the rake, Exhibit S26?
A. Yes, sir.
Q. Where did you find it?
A. On the road from Medford to Tabernacle, the back road.
Q. What was that?
A. The back road from Medford to Tabernacle.
Q. On the back road from Medford to Tabernacle?
A. Yes, sir; sandy road.
Q. And where was it with relation to the road?
A. Right to the edge of the road.

Cross-examination.

By Mr. Carrow:

Q. When was that?
A. October 20th.
Q. Where did you say the rake was with relation to the road?
A. Right close to the edge of the road.
Q. Right close to the edge of the road?
A. Yes, sir.

Q. Are you a frequent frequenter of that particular road?

A. Yes, sir.

Q. How often do you go along there?

A. I had been traveling up that road then four or five days steady right straight.

Q. On October 20th—October 19th were you along there?

A. No.

Q. Eighteenth or 17th?

A. I was along there a few days before that. I was up to Tabernacle.

Q. A few days before?

A. Yes, sir.

Q. Did you see that rake there then?

A. No, sir.

Q. Was it in plain sight—

A. Yes, sir.

Q. —when you found it?

A. Yes, sir.

Q. Do you say that it was not there previous to the 20th?

A. Not that I saw it.

Q. Would you have seen it if it had been there?

A. Well, if I had been looking I would, I suppose, along the road.

Q. What made you look particularly on the 20th?

A. Just driving down past there with the car and happened to see it laying there.

Q. Didn't somebody ask you to look?

A. No, sir.

Q. Did you see a reward for it?

A. No, sir.

FRANK G. GIBERSON, recalled.

The Prosecutor: When this witness was on the stand yesterday I neglected to ask him about the finding of the spade. With the consent of counsel for the defendant, I am going to do it now.

By the Prosecutor:

Q. Mr. Giberson, on November 21st were you in the neighborhood of Tabernacle or Irick's Causeway?

A. Yes, sir.

Q. Did you find anything?

A. I found a revolver and a spade.

Q. Where did you find the spade?

A. Near Anthrim's Spring.

Q. Will you describe to us where Anthrim's Spring is?

A. It is the other side of Red Lion about a mile.

Q. Where is Red Lion with respect to Irick's Causeway? Is it this side of Irick's Causeway or is it on the other side?

A. This side.

Q. About how far this side of Irick's Causeway?

A. I suppose about three mile and a half.

The Court: Speak a little louder, will you?

The Witness: About three mile and a half.

Q. Is it on the road leading to Medford?

A. Yes, sir.

Q. On a road that would lead to Camden?

A. Yes, sir.

Q. Where with relation to the road did you find this spade?

A. On Irick's Causeway branch.

Q. Where was it? In the road or alongside of the road?

A. Along the edge of the road, right in the edge of the bushes, along the edge of the brush.

No cross-examination.

FURMAN L. SHAW, sworn.

By the Prosecutor:

Q. Mr. Shaw, where do you live?

A. Collingswood.

Q. What business are you in?

A. Jewelry business.

Q. Where is your place of business located?

A. 552 Federal.

Q. Just opposite the court house here. Do you know the defendant, Raymond Schuck?

A. Yes, sir.

Q. On Ocober 16th was he in your place of business?

A. Yes.

Q. For what purpose?

A. To buy a diamond ring.

Q. Did he buy a diamond ring?

A. Yes, sir.

Q. What kind?

A. Gentleman's cluster diamond ring.

Q. Is that the ring? (Showing ring to witness.)

A. That is the ring; yes, sir.

Q. What was your answer?

A. Yes, sir; that is the ring.

Q. Was it paid for?
A. Yes, sir.
Q. By whom?
A. Mr. Schuck.
Q. How much did he pay for it?
A. Two hundred and ten dollars.

The Prosecutor: I offer the ring in evidence and ask that it be marked Exhibit S28.

(Marked Exhibit S28.)

No cross-examination.

Elizabeth Robinson, sworn.

By the Prosecutor:

Q. Mrs. Robinson, where do you live?
A. 1257 Park Boulevard, Camden.
Q. Do you know the defendant, Raymond Schuck?
A. Yes, sir.
Q. How long have you known him?
A. Close on to six years.
Q. Very closely connected with him?
A. Yes, sir; he has been like a son to me.
Q. What is that?
A. He has been like a son to me.
Q. And he and your son are friends?
A. Friends; yes, sir.
Q. And your son is Harry Robinson?
A. Yes, sir.
Q. The one who has already testified in this case?
A. Yes, sir.

Q. On the Monday morning of October 18th, was Schuck at your house?

A. Yes, sir.

Q. Will you tell us what took place?

A. Why, he said he was going to—he had been sick and he guessed he would go to Europe for about three months and see Jack Hampton, and I said, "Jack isn't in Europe, he is in Germany." He said, "I will go to Germany and see him." That was all.

Cross-examination.

By Mr. Carrow:

Q. Mrs. Robinson, do you think he was serious when he said that?

A. No, I think he was—I took it as a joke.

By the Prosecutor:

Q. Why did you take it as a joke?

A. Why, I didn't think he meant it when he said it. That was it.

Q. Did you tell him that he was joking?

A. Yes, sir.

Q. What did he say?

A. He laughed it off, and he said he felt bad and he guessed he would go.

Q. Did he volunteer that statement to you?

A. Yes, sir.

Q. That he was going to go to Europe?

A. Yes, sir.

The Court: The Court will recess between 12.15 and 1.15. I will ask that the jury be now taken from the room before anyone in the audience leaves the room.

(Recess taken until 1.15 o'clock P. M.)

(Trial of the cause resumed at 1.15 o'clock P. M., pursuant to adjournment, in the presence of the defendant and counsel for the respective parties.)

WILLIAM T. WOOD, sworn.

By the Prosecutor:

Q. Mr. Wood, where do you live?
A. Haddonfield, New Jersey.
Q. By whom are you employed?
A. Keystone Telephone Company.
Q. In what capacity?
A. Purchasing agent.
Q. Do you know the defendant, Raymond Schuck?
A. Yes, sir.
Q. How long have you known him?
A. Approximately ten years.
Q. Will you speak a little louder, please?
A. Approximately ten years.
Q. During the week of October 18th, did you have any conversation with the defendant, Schuck?
A. Yes, sir.
Q. Where was the conversation?
A. At his home.

Q. What was the subject matter?

A. Well, I seen an account in the paper where he had been interviewed or questioned by the Prosecutor——

Mr. Carrow: Well, wait a minute, Mr. Wood; will you kindly answer the question that was asked you before you give the details?

A. Put the question again, please.

The Prosecutor: I think the witness thought he was doing that. You are not permitted to tell what you read in the paper, Mr. Wood; as a result of what you read in the paper, you went to see Mr. Schuck?

The Witness: I was giving the reason.

Mr. Carrow: Now, wait a minute, if your Honor please; that is not fair.

The Court: No, Mr. Carrow, I will just have the question read to the witness, and after the stenographer has read the question, if Mr. Wood does not fully understand it, why, then he may say so.

(Question repeated.)

The Court: That is, what did you and Mr. Schuck talk about at his home—what was said?

A. It was concerning this here Paul murder principally. I went there to find out if he knew anything of it, and also concerning his health.

Q. What did you say to him about it and what did he say to you?

A. I asked him if he knew anything about it, and he says no, and furthermore he didn't think that the other fellow knew anything about it, that is, Mr. James.

Q. He said he didn't know anything about it and did not think James did?

A. No, and neither did he know Paul.

Q. What was that?

A. And neither did he know Paul.

Cross-examination.

By Mr. Carrow:

Q. At whose suggestion did you go to visit the defendant?

A. No one's.

Q. No one in authority?

A. A friendly interest is about all.

Q. You say you talked about his health?

A. Yes, sir.

Q. Was there anything the matter with his health at that time that you know of?

A. Well, now, I didn't know, but I took it for granted that he was in poor health.

Q. Why?

A. Well, his general appearance.

Q. Where was he—was he in bed?

A. He was in bed, yes, sir.

JOHN PAINTER, sworn.

By the Prosecutor:

Q. Mr. Painter, do you hold any official position in the City of Camden?

A. Yes, sir.

Q. What is it?

A. City detective.

Q. How long have you been city detective?

A. Going on thirty-eight years.

Q. Are you familiar with the vicinity of Delaware Avenue and Market Street?

A. Yes, sir.

Q. Tell us what is located there.

A. Delaware Avenue and Market Street?

Q. Yes.

A. At one corner is the Victor Talking Machine and the other side is the entrance to Market Street Ferry, front and back.

Q. Going north on Penn Street what is there, or north on Delaware Avenue?

A. There is a few buildings there, the Victor Talking Machine, the railroad up Delaware Avenue.

Q. Are there industrial plants along there?

A. Sir?

Q. Are there industrial plants along that street?

A. Yes, sir.

Q. What character of street is Penn Street from Delaware Avenue out to Seventh?

A. It is a residential section.

Q. And on Seventh Street to Market?

A. The same thing.

Q. And what is the character of Market Street?

A. There are some manufacturing places there, a fire house out near the railroad bridge.

Q. Are there any municipal buildings along Federal Street?

A. Federal?

Q. Yes.

A. Yes, sir.

Q. What?

A. The City Municipal Building and also a fire house, and there is a small building there that is occupied by the bridge tenders at the entrance to the bridge.

Q. Are you familiar with where Marlton Avenue joins Federal Street?

A. Yes.

Q. At what point does it join?

A. Twenty-first Street and Federal.

Q. Are you familiar with the road that leads from Marlton Avenue to the Baird Avenue Bridge at Forest Hill Park?

A. Yes, sir.

Q. What is the character of the locality between Marlton Avenue and Baird Avenue Bridge?

A. It is all lots, all open ground, and some underbrush there.

Q. On November 7th last, did you, in company with some other gentlemen, go to the neighborhood of Clement's Bridge?

A. Yes, sir.

Q. For what purpose?

A. To recover some articles that were thrown out of an automobile.

Q. Did you recover anything?

A. Yes, sir.

Q. What?

A. Those two boards.

Q. The two boards which I now have in my hand?

A. Yes, sir.

The Prosecutor: I ask that they be marked Exhibit S29.

(Said boards so marked.)

Q. Was the defendant, Schuck, present when the boards were found?

A. Yes, sir.

Q. And how was the locality reached?

A. By Mr. Schuck's advice.

Q. What statement did he make concerning the boards?

A. He said they were thrown out, and showed the spots where they were found, along the road near Clement's Bridge.

Q. Thrown out of what?

A. Out of Mr. James' automobile.

The Prosecutor: I offer the boards in evidence.

The Court: The boards will be received in evidence.

Q. Mr. Painter, were you present at the taking of these photographs which have been numbered Exhibits S1 to S6?

A. Yes, sir.

Q. What is Exhibit S1?

A. It is the entrance to Federal Street ferry; this is the right side and this is the wrong, the back way.

Q. What is Exhibit S2?

A. That is a continuance of the back entrance down back of the shed toward the ferry.

Q. What is Exhibit S3?

A. This is the Forest Hill entrance from the Marlton Pike.

Q. What is Exhibit S4?
A. This is Irick's Causeway up in the pines.
Q. Exhibit S5?
A. That is the road leading from the bridge opposite the grave.
Q. Exhibit S6?
A. That is the grave.

Cross-examination.

By Mr. Carrow:

Q. Mr. Painter, you say that the defendant was in your company at the time you found those boards?
A. At the time they were picked up, yes, sir.
Q. They were found at Clement's Bridge?
A. In Gloucester County, yes, right near the bridge.
Q. And it was at his suggestion that you went there?
A. Yes, he directed the machine.
Q. And he showed you where the boards were?
A. Yes, sir.

GEORGE M. BERINGER, sworn.

By the Prosecutor:

Q. Where do you live?
A. 414 North Fifth Street, Camden.
Q. What is your business?
A. Pharmacist and chemist, microscopist.
Q. How long have you been———

A. How long have I been in the business?

Q. How long?

A. Since 1876.

Q. When did you commence the study of chemistry?

A. About 1874, I first started to take up chemical studies.

Q. Where and under and under whom?

A. In the Philadelphia High School, under Dr. Isaac Norris and Professor Elihu Thompson.

Q. Did you afterward have any private instruction?

A. I afterward took up instruction in the Philadelphia College of Pharmacy, under Dr. Samuel P. Sattler, subsequently privately with Dr. Henry Leffman and Charles Bullock.

Q. Since that time have you continued your studies to the present?

A. I have, continuously.

Q. Have you made any other studies?

A. I have specialized in microscopy.

Q. Microscopy?

A. Yes, sir.

Q. What is that study?

A. The study of the appearance of tissues under a microscope and the various methods of testing them and applying chemical and microscopic tests to find their character.

Q. Under whom did you study that?

A. That study was taken up largely under Professor John M. Maisch and after a while under Dr. Wilson at the University of Pennsylvania.

Q. And have you continued your studies along that line from that time?

A. Yes, I have.

Q. Are you member of scientific associations?

A. I am a member of the American Chemical Society and of its sections; I am a member of the Pharmaceutical Association, former president thereof, member of the Philadelphia College of Pharmacy, chairman of its board of trustees; I am a member of the committee on revision of the United States Pharmacopeia, and likewise the National Formulary, which are the two legal standards of the country; I am a member of the Acadamy of Natural Science, Philadelphia.

Q. Have you contributed works to the literature on this subject?

A. Frequently; I am editor of the American Journal of Pharmacy, which is the oldest pharmaceutical journal in the country.

Q. Have you on previous occasions qualified as an expert and been accepted as such?

A. I have served as an expert in Camden County, Burlington County before the Federal Courts, at Trenton, Philadelphia and elsewhere.

The Prosecutor: I think we have sufficiently qualified Dr. Beringer as an expert to testify, haven't we?

The Court: Is Mr. Carrow satisfied, or do you desire to cross-examine?

Mr. Carrow: I am satisfied, if the Court please.

The Court: Very well then, you may continue, Mr. Wolverton.

Q. I now show you Exhibit S16, which is a piece of tape, and ask you if you have made an examination of that to ascertain the presence of human blood on it?

A. I have, sir.

Q. Did you find human blood?

A. I found blood on several of the spots that were examined.

Q. By what means did you arrive at your opinion?

A. A chemical and microscopical examination of several of the spots on this piece of tape. I found that they were blood, and in my opinion they were human blood stains.

Q. Have you the result of the tests that you made in coming to that opinion?

A. I have preserved a number of the tests that were applied to those spots. The guaiac test was the first chemical test applied, of which I have preserved the test papers from two of the spots. Likewise tests were made to determine the presence of the haemin crystals or Tychman's crystals, as they are sometimes called, and of these microscopic slides were prepared permanent mounts, and photomicrographs made of the appearance of the crystals in those spots. The photographs that I have here were the photographs of the appearance of those crystals under the microscope.

The Prosecutor: I offer those tests in evidence and ask that they be marked Exhibit S30.

The Court: There being no objection, these exhibits will be received in evidence and marked Exhibit S30.

(Marked S30.)

Q. I now show you Exhibit S20, which is the door of an automobile, and ask you if that was delivered to you for the purpose of making an examination to ascertain the presence of blood spots?

A. Delivered to me on October 24, 1920.
Q. Did you make an examination of it?
A. I have, sir.
Q. What did your examination reveal?
A. One spot especially which I marked here with crayon had a small droplet or clot which I took and examined carefully. It contained blood and likewise small, fine hairs of gray color and basic tissue at the base of the hairs. From this spot tests were made, chemical and microscopic, and likewise measurements were made of the blood corpuscles, and likewise a small portion was preserved in a vial, showing still the colored blood diluted, and a portion of the tissue which was separated from the spot. There was another spot which showed a finger mark which I did not determine—which I determined not to take up or examine so as not to destroy the impress of the finger print that was there.
Q. Have you the tests with you that you made?
A. These are the tests. This is the blue reaction with guaiac which blood gives on that paper. Here I have made the photographs of the characteristic crystals obtained from this spot. They were very characteristic and very numerous, as also shown by this photograph. This is a smaller spot under a microscope of a little higher magnification, showing crystals more distinctly and very characteristically. This vial contains a portion of the tissue separated from the spot, and here is a little of the diluted blood in normal salt solution which has been retained and from which reaction can still be made.

The Prosecutor: I offer these exhibits in evidence and ask that they be marked S31.

The Court: There being no objection, these exhibits will be received in evidence and marked S31.

(Marked S31.)

Q. I now show you Exhibit S29, having been testified to as floor boards, and ask if they were delivered to you for the purpose of making an examination——

A. Yes, sir.

Q. —— to ascertain the presence of blood?

A. On December 3rd, they were submitted to me for examination.

Q. What did your examination show?

A. I examined six spots on these pieces of board, which I have indicated by drawing a pencil circle around them and numbering them. On five out of the six spots I obtained positive reactions for blood.

Q. Are these the tests that were made which in your opinion show it to have been human blood?

A. These are the chemical tests which were made of those five spots I referred to.

The Prosecutor: I offer those tests in evidence and ask that they be marked as Exhibit S32.

The Court: There being no objection, the tests will be received in evidence and marked S32.

(Marked S32.)

Q. I now show you Exhibit S19, having been testified to as lining or cardboard, and ask if they were delivered to you for the purpose of ascertaining the presence of human blood?

A. These were given to me for that purpose on December 14.

Q. What did your examination reveal?

A. Two distinct spots which I have marked with crayon here were selected for examination and they gave positive evidence of the presence of blood.

Q. Are these the tests that you made?

A. Those are the part of the chemical tests made. I have the microscopic slides from which the haemin crystals were made with me, but did not have time to make the photographs, but the tests were distinct and positive in this case.

The Prosecutor: I offer them in evidence and ask that they be marked Exhibit S33.

The Court: They will be received in evidence and marked S33.

(Marked S33.)

Cross-examination.

By Mr. Carrow:

Q. You say that in your opinion from those tests which you have made those spots were stains made by human blood?

A. That is my opinion, sir.

Q. That is merely an opinion?

A. That is my opinion, based on the examinations and tests made.

Q. If you didn't know of the circumstances under which those spots were placed upon these various articles from which you made these tests, would you then be able positively to say it was human blood?

A. I would have arrived at the same conclusion.

Q. Now, on this door I understood you to say that you located a spot of blood with something that in your opinion was human hair. What part of the door?

A. This spot right here.

Q. That spot right there?

A. Yes, sir.

Q. Is that the only portion, right there?

A. That is the spot I examined.

Q. Were there any other spots that you saw?

A. Some other spots here which I did not examine.

Q. Along here?

A. Yes. Showing finger impressions.

Q. Did you examine the whole door?

A. I looked over the door with a hand glass and picked out. That is the most typical spot. I examined several other spots like this one, for example, which are rust spots, so as to determine the difference between the rust spot on the door and the blood spot that I was examining.

Q. These spots that you eventually determined were blood spots, was a blood spot, was right here?

A. Yes.

Q. And on that spot there was something that to your mind indicated it was human hair; is that right?

A. Yes, sir.

Mr. Carrow: Can the gentlemen of the jury see that mark that he made? It is right there (indicating).

BURLEIGH B. DRAPER, sworn.

By the Prosecutor:

Q. Mr. Draper, where do you live?
A. 532 Cooper, Camden.
Q. Where are you employed?
A. Broadway Trust Company.
Q. In what capacity?
A. President.
Q. President?
A. Yes, sir; president.
Q. On the early morning of November 7th, did anyone pay you a visit at your home on Cooper Street?
A. Yes, sir; they did.
Q. Who?
A. The Prosecutor and county detective, accompanied by other officials.
Q. What did the Prosecutor have in his possession?
A. Packages that had been recovered from a grave, I was told.
Q. What was done with the packages after we reached your home?
A. They were taken to Mt. Holly, at the Mt. Holly jail.

Mr. Carrow: Wait a minute. I object. I do not think Mr. Draper knows that.

The Prosecutor: Oh, yes; he was with us. I asked him where they were taken.

The Court: The answer was such that it might have been hearsay, so if you will just put the question, Mr. Wolverton, as to what he himself knows—

Q. After we came to your home that evening and left, did you accompany us?

A. I did.

Q. And where did the Prosecutor, you and the packages go?

A. To the Mt. Holly jail.

Q. What was done when we reached the Mt. Holly jail?

A. The packages were opened and counted.

Q. Opened by whom?

A. By myself.

Q. Were the packages of the same size?

A. One package was larger than the other.

Q. And the larger package, how was it wrapped?

A. The larger package was wrapped in newspaper and tied with string.

Q. Did you, after opening the package, count the money?

A. I did.

Q. How much was there in the larger package, which has been marked as Exhibit S17 in this case?

A. Twenty-one thousand, one hundred and twenty dollars.

Q. Is that the package?

A. I would say it was, yes.

Q. Since that time where has it been on deposit?

A. In a safe deposit box at the Broadway Trust Company.

Q. And what were the denominations of the notes?

A. Twenties, tens and fives.

Q. I now show you Exhibit S18 and ask you if that is the smaller of the two packages that you have testified to?

A. It is.

Q. And how was that package wrapped at the time you opened it?

A. It was wrapped in this cardboard, and around it—or it was tied together with tire tape or electric wire tape.

Q. Is this the tape that you refer to as tire tape?

A. Yes.

Q. Was it intact at the time you opened it?

A. It was.

Q. After opening it did you count the money?

A. I did.

Q. How much was there in it?

A. Nine thousand, one hundred and sixty dollars in the smaller package.

Q. What was the denomination?

A. Those were all twenties.

Q. Now, on November 8th, was this Exhibit S11 brought to your attention, which is a package of money?

A. It was.

Q. Under what circumstances?

A. It was brought to me by the County Prosecutor and county detectives at the Broadway Trust Company.

Q. Did you count the money?

A. I did.

Q. And how much was there in that package?

A. Forty-six hundred dollars.

No cross-examination.

LAWRENCE C. DORAN, sworn.

By the Prosecutor:

Q. Mr. Doran, where do you live?

A. 1115 Mechanic Street, Camden.

Q. Do you hold any official position in the County of Camden?

A. County detective.

Q. How long have you held that position?

A. Ten years past.

Q. On the early morning of November 7th last, did you go to Evergreen Cemetery?

A. I did.

Q. In the company of whom?

A. The Prosecutor, County Detective Parker of Mt. Holly, Mr. Morton, Detective Painter, Schregler, man by the name of Fleetwood. Quite a crowd there.

Q. And the defendant?

A. The defendant was also present.

Q. And where did you go? To whose burial lot in Evergreen Cemetery, or what name was on the lot?

A. I am not so sure, but I think it was Scott.

Q. What was done after the party reached this burial lot?

A. There was about four or five of them started to dig and they recovered two packages which was put in our car and taken to Mr. Draper's home. When we took Mr. Draper with us to Mt. Holly it was counted in our presence in Mt. Holly.

Q. Were the packages opened from the time they were taken out of the ground until they were opened by Mr. Draper at Mt. Holly?

A. They were not.

Q. How were the packages wrapped when they were taken out of the ground?

A. One was wrapped in newspaper with twine about it, and the other was wrapped in a sort of cardboard with automobile tape or tire tape wrapped around it.

Q. And are these exhibits, this money and packages which have been produced here as Exhibits S17 and S18, the money that was recovered from the Scott burial lot on the morning of November 7th?

A. It is.

Q. I show you Exhibit S11, which is a package of money which it has been testified contains $4600, and ask if you have seen that before?

A. Yes, sir.

Q. Where and under what circumstances?

A. I went with a search warrant to search the home of John James, the father of Frank James. I found that $4600 in the front room, second floor, in a drawer at the bottom of a wardrobe which was built in the side of the wall.

Q. I now show you Exhibit S28, which is a diamond ring, and ask if you have seen that before?

A. Yes, sir.

Q. Where and under what circumstances?

A. I got that out of Schuck's home on Liberty Street.

Q. You mean the defendant's home?

A. The defendant's home, yes, on Liberty Street, November the 17th.

Q. Where was it?

A. It was hid at the top of an upright near the ceiling in the bath room.

Cross-examination.

By Mr. Carrow:

Q. Mr. Doran, you say the defendant was present with you and some other people in the Evergreen Cemetery?

A. He was, and also helped to dig.

Q. He furnished the information as to where to dig?

A. Not to me he didn't.

Q. Did you do any digging?

A. I did not. I stood by watching.

Q. Where did you get the information that led you to recover that package of money, that $4600?

A. I am not so sure but not from the defendant.

Q. You did not?

A. No, sir.

Q. Where did you get the information that led you to recover that diamond ring?

A. From the defendant.

Q. You are sure that you didn't get the information about the money from the defendant?

A. Positive.

Q. Do you know who gave it to you?

A. Detective Shregler.

Q. Detective Shregler told you where to go to get that money?

A. He went with me. He was with me, and it was supposed to be in that house. He had information of that fact. I got a search warrant and went with him, and I located it.

Q. You had no information that that money was in the house outside of what Detective Shregler told you?

A. Yes, he told me about it. He had gotten some information.

Q. And where did you find it?

A. Second floor, front room, in a drawer in the wardrobe that was built in the wall, stationary wardrobe.

By the Prosecutor:

Q. In answer to Mr. Carrow's question you said you got the information from the defendant where that ring was in his home. Did the defendant tell you where it was?

A. He told me about where to find it, but I had to go to him three times before he would tell me.

Q. Did he tell you that it was in the bathroom at the point where you found it?

A. Not at first he didn't, but he tried to explain it afterwards. He tried his best, I believe, but I was a long while locating it after I got there.

By Mr. Carrow:

Q. Didn't the defendant draw a plan for you to go by in recovering that ring?

A. He was drawing some kind of marks on a piece of paper, but the marks was hard to follow.

Edward I. Berry, sworn.

By the Prosecutor:

Q. Mr. Berry, where do you live?

A. Merchantville.

Q. Do you hold any official position in the County of Camden?

A. Yes, sir; I am the official court stenographer of the Second Judicial District. Camden County is one of the counties in that district.

Q. How long have you held that position?

A. Since 1904.

Q. And how long have you been reporting in the courts of New Jersey?

A. Since the 1st of January, 1896.

Q. Are you a member of any associations connected with your profession?

A. I am a member of the National Shorthand Reporter's Association; I am an honorary member of the Pennsylvania Court Reporters' Association, and a member and officer of the New Jersey Court Reporters' Association.

Q. What office do you hold in the New Jersey Court Reporters' Association?

A. President.

Q. On October 23rd, 1920, last, did you report stenographically a conversation between Assistant Prosecutor Straw and the defendant Schuck, at my office in the City of Camden?

A. I am not certain about that date, unless I could refer to the notes. I did one Saturday afternoon, about that time.

Q. Well, look at your notes.

A. I will have to get the notes of that particular examination, which I haven't here present.

Q. That is the examination that I expect to carry on now, Mr. Berry, October 23rd.

A. Well, may I be excused a moment? I can get those at my office.

(The witness left the court room to get the notes of the interview referred to, and upon his return the examination was carried on as follows):

Q. Who was present at that interview?

23rd. There were present at the interview Detective

A. I have the notes here. I find it was October Painter, Assistant Prosecutor Straw, the witness and myself.

Q. Did you take down stenographically all that was said by any of those present?

A. I did, sir.

Q. Have you that before you at this time?

A. I have the stenographic notes of that conversation; yes, sir.

Q. Refreshing your memory as to what was said at that time, if necessary, looking at your notes, will you tell us what was said?

Mr. Carrow: Wait a minute. If your Honor please, there has yet been nothing shown that the defendant was properly warned that what he said on that occasion would be used against him.

The Prosecutor: Well, if the Court please, I do not mean this remark to be captious in any sense, but counsel for the defendant has assumed that it was necessary to have warned the defendant before any statement was taken from him. I know of no principle in the State of New Jersey that required any warning to be given to this person at the time this statement was made. However, we did give him warning, and I have no objection to Mr. Berry reading that before he proceeds with the statement; and, in fact, would prefer that he do so.

The Court: Then if you will just re-cast the question, to Mr. Berry's recollection of what was said with reference to warning the defendant concerning the statement that he might make——

Q. Mr. Berry, before any questions or answers were put to Mr. Schuck, was anything said by Mr. Straw to him advising him as to the situation and the purpose of the examination and his rights?

A. Yes, sir.

Q. Will you read to us what was said?

A. There was first a question before that warning, as to where the defendant lived, and the answer, "1139 Liberty Street, Camden."

"Q. Mr. Schuck, as you know, we are conducting —you know my name is Straw?

"A. Straw, yes.

"Q. And I am an assistant to Mr. Wolverton, Prosecutor of Camden County?

"A. Yes.

"Q. As you know, we are conducting an investigation into the death of David S. Paul, and the object of the investigation, of course, is to ascertain the cause and manner of his death.

"A. Yes.

"Q. I am going to ask you to trace your movements from the 4th day of October down to the present time, as nearly as you can, and of course, it is understood that it is a purely voluntary matter on your part; you don't have to say anything to me at all unless you want to, but if you will tell me——"

There the witness interrupts the questioner and says:

"Well, what I tell you, I want to tell the truth."

Q. When you say the witness, you refer to Schuck?

A. To the defendant; yes, sir.

Q. What was his answer?

A. "Well, what I tell you, I want to tell the truth.

"Q. Well, that is exactly what we want to find out, that is, the truth.

"A. Well, the fourth day——"

Mr. Carrow: Wait a minute. Is that all that was said, Mr. Berry, in the nature of a warning?

The Witness: No, I think there is a little—something further on, Mr. Carrow.

The Court: You may skip the intervening and refresh your recollection from the notes and just read that portion with reference to the warning.

The Prosecutor: I do not think the answer would hurt. I do not think the defendant would object to it.

Mr. Carrow: I think I would prefer to have Mr. Berry just look at his notes and just tell us what was said.

A. Well, after the answer to this question, Mr. Straw said:

"Well, we will try to work it out together. Then, as I understand it, you are willing to tell me the truth of the matter voluntarily?

"A. Oh, yes, sure.

"Q. And you realize, of course, that anything you say to me can and will be used in court against you if it is deemed advisable?

"A. Yes.

"Q. All right; now let's start with October 4th. That was the day before David Paul disappeared, isn't it?"

Mr. Carrow: I do not think that warning was sufficient. The phrase used by the Assistant Prosecutor, "if it is deemed advisable," certainly may have held out to this defendant some hope that it might not be advisable to be used. Surely there is no specific instruction that it would be used against

him, and how far the Prosecutor himself did go on that point, he qualified by saying, "if it is deemed advisable."

The Court: Well, now, before ruling on the question, is there any evidence you want to put in that there was anything different said? In other words, are you perfectly satisfied with the facts?

Mr. Carrow: I am perfectly satisfied that what Mr. Berry has read is a correct statement of what transpired

The Court: Then I shall rule that if a warning is necessary, which I think, under the circumstances of this case as it then existed, as I gather it from the evidence, that that warning is sufficient and that the statement was a voluntary statement, after having received notice that it would be used against him if they deemed it advisable The words, "if they deemed it advisable" do not take away at all, in my opinion, from the voluntary character of the statement; and, of course, I will grant you an exception to my ruling, Mr. Carrow.

(Exception noted for the defendant.)

(Signed and sealed accordingly.)

FRANK S. KATZENBACH, JR.,
J. (Seal)

JOHN B. KATES,
J. (Seal)

Mr. Carrow: Mr. Berry, when you are reading those questions, will you read them a little slowly so we can understand?

The Witness: I will try to, Mr. Carrow.

The Court: You had better read quite slowly, Mr. Berry, and very distinctly.

The Witness: Shall I proceed?

Q. Proceed, Mr. Berry.
A. (Reading.)
"Q. All right; now, let's start with October 4th. That was the day before David Paul disappeared, isn't it?
"A. That is right; he disappeared on the 5th.
"Q. Which was Tuesday, wasn't it?

"Mr. Painter: Yes, Tuesday.

"A. The 4th—I will tell you, Mr. Straw, I have been feeling so bad, say, for the last month or so, that I have had quite a number of days off, and I might get mixed up when I was working and when I was off.
"Q. Well, we will try to straighten you out.
"A. That is what I want to do, get straightened out. If I am not mistaken, I worked on the 4th.
"Q. That was Monday.
"A. If I had a calendar, maybe I could tell better.

(A calendar is produced and handed witness.)

"The Witness: I think on Monday afternoon of that day that I was off.

"Q. Where do you work, Mr. Schuck?
"A. For the Eastern Telephone and Telegraph Company.

"Q. What position do you occupy there?

"A. Cashier

"Q. Off in the afternoon; now, do you recall what you did that afternoon?

"A. Yes, I went down the country with Mr. James.

"Q. What part of the country?

"A. We went to Clementon.

"Q. Whereabout in Clementon?

"A. Well, another boy and I have a bungalow at Clementon.

"Q. What is his name?

"A. Jess Sage.

"Q. S-a-g-e?

"A. Yes, he lives 956 South Ninth.

"Q. How did you go down to Clementon?

"A. In Mr. James' car.

"Q. Do you remember what time you left?

"A. I think it was shortly after lunch. You see, I can't tell the exact time we left, but I think it was shortly after lunch time we went down.

"Q. Where did you go, you said the bungalow?

"A. Down to the bungalow, yes.

"Q. That is owned by you and Mr. Sage?

"A. Yes, you see, I wouldn't want this put out, published, you see, but it is in Mr. Sage's name on account of my being married, and I was afraid maybe my wife might kick up a fuss, you know, and I protected myself that way, by letting Mr. Sage take it out in his name; but, of course, he tells everybody it is his place, but we really we are in partnership with it.

"Q. But the deed is in his name?

"A. Yes.

"Q. Was there anybody with you down there?

"A. One girl.

"Q. What is her name?

"A. God, I couldn't tell you that, couldn't tell you the girl's name. I don't believe I would know her again if I fell over her. It was a girl that Frank picked up; whether he knows her or not, I don't know.

"Q. Can you describe her to me.

"A. If I am not mistaken, she was a short girl.

"Q. Blonde or brunette?

"A. Whether it was a blonde or brunette, damned if I can tell you. That is how much interest I had in her.

"Q. How much did she weigh?

"A. I should judge she weighed somewhere around 115 or 120 pounds. She seemed to be pretty solid; I got hold of her once, anyway.

"Q. Do you know where James picked her up—you said he picked her up?

"A. I really forget now whether he had an engagement with her or whether he picked her up or not, to tell you the truth, see? I don't know whether he had an engagement or whether he picked her up or what it was.

"Q. From where did you start, Mr. Schuck?

"A. Well, I couldn't say whether Mr. James and I had lunch together over here at Staley's or not, see? You mean where Mr. James picked me up?

"Q. Yes.

"A. Well, if we had lunch together that day, I suppose we started right out after lunch, after I went back to the office.

"Q. Now, how long did you stay down there?

"A. I think I was home in time for supper, around six or half past.

"Q. Did you see anybody that——

"A. You see, I am only making a guess at that, this time business, you know, I can't say the exact

time. Now, that may all come to me; now, that you want me to trace up these things, it might come to me later, you know.

"Q. Well, we will take our time and try to work it out, and if there are any corrections as we go along, we will come back and make them.

"A. I wouldn't want you in an hour or so to come back and say, 'you are a liar.'

"Q. I am not in the habit of talking that way to people, Mr. Schuck; we can work it out and we will make notes of it, and if we want to change any place, we will go back and change it. Do you recall seeing anybody you knew down in Clementon that day?

"A. Not a soul, because the bungalow sets away back. You take a little, short road away back. I suppose you fellows have been down there and you know; there is no question about that, you know where it is.

"Q. I personally have not seen it, so I don't know.

"A. Well, it sets between Clementon Lake and Pillings Lake.

"Q. On what road?

"A. God, we always called it Murphy's Lane and Hogan's Alley; there is no name there; there is no name as far as I know.

"Q. Now, did anything happen while you were down there in the bungalow?

"A. Well, I don't think that would be fair to tell.

"Q. Well, you don't know the girl's name, that is the reason I ask.

"A. No, I positively don't know the girl, I do not.

"Q. And was she with you or with Mr. James?

"A. Mr. James.

"Q Now then, what did you do that evening after supper—did you have supper at home?

"A. Yes.

"Q. And what did you do that evening?

"A. I think I stayed home that evening.

"Q. At your own home?

"A. Yes, sure; how many homes do you think I have?

"Q. Well, I didn't know whether——do you live with your father, Mr. Schuck?

"A. Oh, I see, you meant whether I stayed with my father or brother?

"Q. Yes.

"A. Pardon me; no, I was at 1139 Liberty, my own home; that is, I am almost sure I was.

"Q. Now then, on Tuesday, October 5th, what did you do?

"A. Worked.

"Q. In the morning?

"A. And afternoon both; I worked all day that day. I may have gone out in the afternoon and taken a walk, but I was back in the office on Tuesday.

"Q. Did you see Mr. James that day?

"A. No.

"Q. Did you see Mr. Paul that day?

"A. I don't know Mr. Paul; never met him.

"Q. Where did you have supper?

"A. At home.

"Q. And what did you do in the evening?

"A. Stayed at home that evening.

"Q. Now then, Wednesday, October 6th?

"A. I think on the 5th, the evening of the 5th, something I had eaten that made me sick, and on Wednesday I didn't work.

"Q. All day?

"A. Didn't work all day; in fact, I didn't work all that week.

"Q. Now, were you home all day on the 6th?

"A. Well, I got up late.

"Q. Morning or afternoon?

"A. In the morning, yes, I guess around half-past ten or eleven, something like that; I don't know the exact hour.

"Q. And what did you do, just stay home or go out?

"A. Got up and had a late breakfast and went out.

"Q. Where did you go?

"A. Philadelphia.

"Q. Where did you go in Philadelphia?

"A. Well, I went out to take a walk. You see, I had taken it up with the company a number of times about not getting enough fresh air, I had been feeling ill so long I went to the Philadelphia office at one time and I told them that I had to get out—I think it was the week before that—that I had to get out in the fresh air in the afternoons, and they told me all right, to get out in the afternoons, take a little work and go out and walk around in the sun, try to get feeling better. So I went to Philadelphia and roamed around Philadelphia.

"Q. Do you remember any places particularly that you went?

"A. I think it was mostly in the department stores, walking around the department stores.

"Q. Did you see anybody that you knew?

"A. People that I passed on the street.

"Q. But do you recall anybody that knew you there at that time?

"A. In the department stores?

"Q. Anywhere in Philadelphia?

"A. No, I often pass people on the street and speak to them, you know, but let it go at that, never pay any attention. I suppose that you do that pass them and speak.

"Q. Do you remember any place else that you were other than department stores on that day?

"A. No.

"Q. Now, did you see James that day?

"A. No.

"Q. Did you come home for supper?

"A. That was the 6th?

"Q. Wednesday the 6th, yes.

"A. I don't think I did.

"Q. Do you recall where you had supper?

"A. I think I had something to eat in that Chinee restaurant up at—what do you call it? The Wong Tung restaurant there, 11th or 12th and Market, up on the second floor. I know I have been getting meals there quite often.

"Q. What did you do in the evening?

"A. Well, went out with a friend of mine.

"Q. Man or woman?

"A. Woman. Now, have a heart, have a heart.

"Q. Who was that woman, Mr. Schuck?

"A. Is she going to be brought into this in any way?

"Q. I don't see any reason why she should be brought into it, Mr. Schuck; I am asking you to trace your movements and you say you were with a particular person whom you can identify?

"A. Why, sure.

"Q. Now, it would seem to me that it would help the identification by naming the person.

"A. Well, I will tell you, I would like to give her name, all right, but as far as she is concerned she is a married woman, see, and doesn't live with her husband, and she knew that I was married, although her people didn't, and I am afraid if I gave her name some of you fellows will go get her in the presence of her people and spill the beans. I am

willing to give you her telephone number and she will come over and see you, but I don't want to give you her address, because I don't want you to go over there where her family is. This thing must be strictly confidential, because I don't want her brought in this at all.

"Q. Now then, I will ask you for the name and telephone number and not the address?

"A. Well, it is a Mrs. Mary McGarvey.

"Q. And what is the telephone number?

"A. The telephone is next door, see? It is Belmont 5421J, and all you have to do is to say, 'Will you call Mrs. Mary McGarvey to the phone?' You can get in touch with her tonight, because I only left her a short while ago and she told me she was going home. She is practically the only girl I have spoken to this last year. I used to run around with this one and that one, you know, but I liked her and she liked me, and we have just been pulling around together.

"Q. What time did you return to Camden, Mr. Schuck?

"A. After I left her?

"Q. Yes, please.

"A. Well, I would leave her at all hours, that is, not three or four o'clock in the morning, but around midnight or one o'clock, you know.

"Q. And did you go straight home?

"A. Go straight home, sure.

"Q. Now, Thursday, October 7th?

"A. You see, on the 6th and 7th I had a couple of days vacation coming to me, and it was such darned nice weather I thought I would take a couple of days off, I wasn't feeling good, see, and I took a couple of days off, and I thought, 'Well, Jesus; I might as well make the benefit out of the company and take the other two off, they won't say anything,'

so that is what I did that week. I would go to bed after I left her, come home and go to bed and get up the next morning and go out and take a walk, get in touch with her, meet her that night, and maybe we would take——

"Q. Let's see if we can confine ourselves to special days rather than generalities. On the 7th, do you recall you didn't work on the 7th, then?

"A. No, I didn't work all that week, that is, the 6th, 7th, 8th or 9th. I don't know whether I was in on the 9th or not, that was Saturday; I don't think I was.

"Q. And do you recall what you did that day?

"Mr. Painter: That is the 7th you are talking about?

"Mr. Straw: Yes, that is Thursday the 7th.

"A. I think I got up again late; it was one of those days that I took a walk down around Collingswood before I went to Philadelphia, but I am not positive whether it was on Thursday or Friday. This is a damned hard thing to do, try to remember these things.

"Q. That is why I want to take time to do it, no hurry about it. How did you walk down there, Mr. Schuck?

"A. Haddon Avenue.

"Q. And where did you go in Collingswood?

"A. Well, just took a walk down to Collingswood and I walked away down—well, where there is a little shanty, I don't know the name of the street; it is between Collingswood and Westmont, there is a little real estate shanty standing out somewhere there, and I got a car near there and came on back and went to Philadelphia.

"Q. Now, do you recall what you did in Philadelphia on the Thursday?

"A. If I am not mistaken, I went to Philadelphia and had supper at this woman's sister's house that night.

"Q. At Mrs. McGarvey's sister?

"A. Yes, I think she and I had supper there together that night.

"Q. What did you do in the evening?

"A. Stayed there; we stayed there in the evening until it got rather late, and then we went on home; she went out to her home and I came home.

"Q. Now, did you see Mr. James on Thursday?

"A. No, I didn't see Mr. James all that week.

"Q. How about Friday the 8th?

"A. Well, as I said before, I had that week off and that is what I did most every day, was to get up and go out and take a walk. I think on that day —only one thing, I hope I will get this thing right—

"Mr. Painter: Take your time and figure it out.

"A. This is supposed to be on the 7th or 8th?

"Q. This is the 8th, Friday the 8th.

"A. I will tell you, Mr. Straw, it was either on the 7th or 8th that I met this girl around 5.30 and went to her sister's. Now, I am not positive.

"Q. Either the 7th or 8th?

"A. Yes, it was the 7th or 8th I met her at 7th and Market, around about half past five.

"Q. Philadelphia?

"A. Yes, Philadelphia.

"Q. Where did you have supper?

"A. Oh, at her sister's. If it was the 7th, we had it at her sister's, if it was the 8th we had it at her sister's; I forget whether it was the 7th or 8th.

"Q. All right; now then, take the odd day, no matter which of the days it was—then what would have happened on the odd day?

"A. Well, I was with her during the evening; I think on the 8th, that she and I took in a moving picture show on 52nd Street, a place called the Rialto, or something, kind of a moving picture show.

"Q. On 52nd Street?

"A. Yes, it was either 52nd and Chestnut or 52nd and Walnut, one or the other.

"By Mr. Painter:

"Q. Is that near her home?

"A. Yes, that is right near her home, see? After the show we went back. Of course, as I said before about her family, you know, instead of sitting on her porch we sat on the neighbor's porch.

"By Mr. Straw:

"Q. Then what did you do in the daytime?

"A. What day was that?

"Q. Either Thursday or Friday.

"A. Well, it was either Thursday or Friday that I took that walk, you know.

"Q. That was either Thursday or Friday you walked to Collingswood?

"A. To between Collingswood and Westmont, to that shanty.

"Q. Now, on the odd day——

"A. To Philadelphia; I bought an overcoat in Philadelphia in one of the department stores.

"Q. In what store?

"A. I think it was Strawbridge & Clothier; it was either there or Lit Brothers; not an overcoat, just a spring coat, you know.

"Q. That was either Thursday or Friday—you can't fix which day it was?

"A. Yes, with the two of them; it is either one way or the other, turn one or the other; I just can't recall.

"Q. Now, did you see James on that day?

"A. No, sir.

"Q. Did you come home that evening?

"A. Yes, after I left this party I came home as usual.

"Q. Now then, Saturday the 9th.

"A. If I am not mistaken I stayed in the house Saturday, that day, and didn't leave the house until around five or six o'clock.

"Q. Where did you go?

"A. Straight to Philadelphia, met this girl.

"Q. Do you recall where you met her?

"A. I think out near her home.

"Q. And what did you do that evening?

"A. That evening?

"Q. Yes, sir.

"A. Oh, we took in a moving picture show either on—I think it is on Chestnut Street above 15th or 16th, a play called—wait a minute—what the dickens was that? 'Something to think about'—I think that was the name of the play, the moving picture, 'Something to think about.' I think that is where we went that night.

"Q. Do you recall seeing anybody that you may have known?

"A. No, when she and I are together we have very much got our heads together, not looking for anybody.

"Q. What time did you come home that night?

"A. Why, that night we stayed at her sister's.

"Q. And when did you come back to Camden?

"A. I stayed there all day Sunday; I can't say for sure, Mr. Straw, whether I stayed there Sunday night or not. I have oftentimes stayed Saturday night and Sunday night and come right over to the office on Monday morning, but I can't say whether I was home that night or not, probably she can recall it, but I think I was over to her sister's on that night, that Sunday night.

"Q. Now, was there anybody there at the house as guests that would recall you being there?

"A. Her sister and brother-in-law.

"Q. No, but I mean nobody outside of the family?

"A. Oh, no, no.

"Q. And you don't recall whether you came back on Sunday night or not?

"A. No, I feel sure, though, that I stayed over there that night.

"Q. Now, did you see James that day?

"A. No, sir.

"Q. Now, let's see—Monday, October 11th?

"A. I worked on Monday.

"Q. All day?

"A. I can't say whether I went out in the afternoon or not for a walk. Now, wait a minute; on the 11th—let's see.

"Q. The day before Columbus Day?

"A. Was that the day that the world series started, do you remember, the baseball world series?

"Q. I don't think so, was it? Did it start on Tuesday?

"A. Listen no, wait a minute; I think on Monday 11th in the afternoon—— You see, my wife and I have been having a little trouble, and I was going to ask Dad if I couldn't have a room up to his house, and I think I went to Harry Robinson and asked him if I could use his car to move my clothes up there.

"Q. Who is Harry Robinson?

"A. He is an old friend of mine, lives on Park Boulevard.

"Q. The clothier, you mean, out there?

"A. No, no, Harry Robinson, he works back here on Line Street somewhere; his job is a foreman out East Camden.

"Q. Oh, yes; do you remember if he loaned you the car?

"A. Yes, I had Harry Robinson's car that day. Doggone it, I can't remember what time I got it, though. I had it in the afternoon sometime. Why the dickens didn't you fellows send word out there when I was sick that you wanted me to check up my time; I would have had it all written out for you.

"Q. Because you were sick and there wasn't any use bothering you.

"Mr. Painter: We didn't bother you.

"Mr. Straw: What is the use of bothering a sick man?

"By Mr. Painter:

"Q. Didn't they say an insurance man or somebody was asking for you?

"A. Who?

"Q. King, and they said you were sick, and King said, 'Well, tell him to come out when he is better'.

"A. Somebody said it was a newspaper man or something.

"Q. That was King.

" By Mr. Straw:

"Q. There was no use disturbing you when you were sick.

"A. I am almost sure it was on Monday that I got Harry's car.

"Q. Do you remember whether you moved your clothes out to your dad's?

"A. No, I didn't move them; I got the car, came back to the office and went to the National State Bank and the car was out in front of the office.

"Q. What kind of a car is it?

"A. He has an Oakland, five passenger car.

"Q. In front of the office, that is, of the Eastern Telephone?

"A. It seems to me that the day I had that car there was—must have been a baseball series, because there was an awful lot of people around there, and I had to leave the car for a while on Arch Street; and if it wasn't on Monday I had his car, it was on Tuesday; it was the day that the score was going on there at the Courier, because there was an awful lot of people there, and I couldn't pull the car up in front of the office.

"Q. Well, did you go any place else with the car from the National State Bank?

"A. Went up here to—let's see; I think I stopped at Mr. Carrow's office. Mr. Carrow and I have been very friendly. I rode up there; I thought I would take a little ride.

"Q. Russell Carrow?

"A. Russell Carrow, yes. I stopped across the street and went over and his stenographer told me he wasn't in.

"Q. Then what did you do?

"A. It was some time after that I went back to Harry and told him I wanted to keep the car a little longer, and he said all right, but I don't know the exact time when I went back to see him.

"Q. Did you do anything else between the time you went to Russell's office and when you went to ask Robinson to let you have his car a little longer?

"A. Oh, I went right down from Carrow's office to Mr. Robinson, see, and Harry says, 'All right,' so I came back to the office. After the office closed—I can't remember whether I had supper home or whether I had it in Philadelphia; I can't remember where I had supper that night, whether it was home or in Philadelphia.

"Q. But eventually you got to Philadelphia?

"A. I went to Philadelphia that night, and this girl's sister, oh, sometime ago, had an operation performed; I thought probably she would want to take a little ride, you know, it would do her good, and I wasn't feeling well, and I thought it would do me good. So I got this girl friend of mine and her sister and we took a ride.

"Q. Then you went to Philadelphia in Robinson's car then?

"A. Yes.

"Q. Where did you go?

"A. Well, we rode up and down Walnut Street and Chestnut Street and all the way out Walnut Street as far as we could go, and at the end—I think it is 63d and Walnut, Walnut Street comes to an end, and we turned to the left and went as far on the left as we could, and we turned around a sort of a little triangle, a square there, and came back the same way, see, in Walnut again.

"Q. Then back to the girl's house?

"A. No, we rode around for a couple of hours, all around the streets, up and down, up and down and around; it could be around about half-past eleven, eleven o'clock or half past—I don't know the exact time—but her sister wanted to go in, so we left her

sister out, and so my friend and I went out and took another ride.

"Q. Where did you go?

"A. Well, we only went about ten squares and I got a flat tire, and we had a flat tire on, and I think it was on Walnut Street—I know I must have rode —I couldn't change to the other tire; you see, they had an extra tire on the back, and I took this flat tire off and the extra tire I couldn't get in it; it seemed as if there was something the matter with the rim. So I decided to put the flat tire back on this wheel—it was the right front shoe—and find the nearest garage. So this girl says there was a garage near her home; she said, 'Come on, it is late, we will go back to the garage near the house and let the colored fellow try his luck.' So I rode back on a flat tire to this garage.

"Q. Where is that garage?

"A. She lives 5138 Chancellor Street; you see that is right the other side of Walnut, a little street. The garage is on the opposite side from where she lives, a few doors this way, east.

"Q. Then fifty-one hundred and something Chancellor Street?

"A. Yes, fifty-one hundred and something, I don't know the name of the garage, but it is right on her street. There is two garages together, and I went in the one nearest to 52nd Street.

"Q. You don't know the name, do you?

"A. No, I do not.

"Q. Whom did you see there?

"A. The colored man washing the machines.

"Q. Did he fix it for you?

"A. Yes, I asked him, told him what trouble I had with it, and I couldn't get it on, and he tried it and he couldn't get it on, so finally he decided he

would have to change the tires all around from the rim, take the tire that was flat, take that rim and put it on the other shoe in order to get it on there, get it on the wheel. So I fooled around there for about an hour, I guess; it was darned near one o'clock before I got away from there.

"Q. Then where did you go?

"A. I came right home.

"Q. Now, did you see James on that day?

"A. No, that was on the 11th, wasn't it?

"Q. Yes; now then, Tuesday, the 12th?

"A. You see, Mr. Robinson, he told me when I got through with the car—— Is that all right?

"Q. Yes, I was going to ask what you did with the car; I hadn't thought of it until you said that.

"A. Well, I want to tell you these things, so we can get this thing straight. He told me when I got through with the car to put it back on Line Street where he works; I think it is Wilckes, Martin & Wilckes, lamp dyes, something like that. It was so late in the morning I was afraid to go back and put the car in and then walk that dark section along back home, so instead of taking it back there I took it around and left it in front of the house all night.

"Q. In front of your house?

"A. Yes, when I got home I was chilled and had caught more cold and was feeling bad. The next morning I had pains through my kidneys and legs and didn't feel like going to work, and I didn't go.

"Q. Did you stay in bed?

"A. Stayed in bed as long as I could, but at the same time I was worried about getting the car back to Mr. Robinson, because I was afraid he would be worried about it, so it was around dinner time on Tuesday that I returned his car.

"Q. Now, then, what did you do at dinner time after you returned Robinson's car?

"A. I think I had lunch with Mr. Robinson and his family that day.

"Q. At his house?

"A. At his house, yes; yes, I have at different time dropped in there and had lunch with them, you know, or had supper or dinner with them, but I think I had lunch with them that day.

"Q. Then what in the afternoon?

"A. What the heck did I do that afternoon? If I am not mistaken, Mr. Straw, I think I went home after I left Mr. Robinson, but I am not positive about that. That may come to me later, see? I may want that corrected, but I think I went home that afternoon.

"Q. Do you recall whether you stayed home for supper?

"A. I think I did have supper home.

"Q. Then where?

"A. To Philadelphia.

"Q. What did you do that night?

"A. Met the same girl; when I have any nights off I meet the same girl.

"Q. Yes, and then where? Then do I understand, Mr. Schuck, that you always met her at 7th and Market?

"A. Oh, no, no, no; I should say not.

"Q. You always go right there to the house?

"A. Well, sometimes, see, I go at the house, and I have met her at different places, Broad Street Station, Reading Terminal, met her all around, different places, different times.

"Q. Do you recall where you met her this particular night—that would be Columbus Day?

"A. God-darn, to tell you the truth, I don't know where I met her, but I know I was with that girl that night.

"Q. Do you remember what you did, where you went?

'A. If we didn't go to the movies, we went to her sister's, either one or the other.

"Q. And did you go home when you got through?

"A. Oh, yes. Now, I am saying, 'Oh, yes,'—I think we may have stayed at her sister's all night. I couldn't swear to that, whether we did or not.

"Q. Now, did you see James on that day?

"A. It was either on the 12th or 13th, that Mr. James come around to our house, either the 12th or 13th. Now, I don't know what the devil day that was. It was in the morning, I know, that he came around, but I don't know whether it was the day I returned Harry's car or whether it was the 13th.

"Q. What time in the morning did he come around?

"A. I should judge around half-past ten.

"Q. And do you remember his special mission, whatever he came for?

"A. He had stopped in the office, which he had done time and time again, and they told him that I was home sick, and he told me he had some business out that way and he stopped in to see me.

"Q. How long did he stay?

"A. I think he stayed half an hour or an hour—really I don't know, couldn't tell how long he was at the house.

"Q. Now then, did you go out in the afternoon?

"A. Say listen—on the 4th—that just came to me—that was on the Monday that we were down at that bungalow that I loaned him my key for the bungalow.

"Q. Did he say why he wanted it?

"A. Well, I had loaned it to him different times, you know, I suppose to go down on a party or take some woman there or something, I don't know.

"Q. When did you get your key back?

"A. I haven't got it back yet.

"Q. And he has had it all the time?

"A. He has still got my key, yes.

"Q. Now, coming back to the day James came there, either, the 12th or 13th, you say, and stayed about half an hour or an hour, then did he go away alone?

"A. Yes.

"Q. Do you know where he went—did he tell you?

"A. Oh, no, no.

"Q. Then what did you do in the afternoon?

"A. Was that on the 12th or the 13th we are talking of?

"Q. Now, let's see— on the 12th, you don't know whether he came on the 12th or 13th, do you?

"A. That is the trouble.

"Q. On the 12th you said you stayed in bed until dinner time, then you returned Robinson's car and had lunch with Robinson's family at his house?

"A. I think I had lunch there, see, but probably if you ask Mr. and Mrs. Robinson maybe they could tell you whether I did or not.

"Q. Then you went over to Philadelphia and either went to the movies or to this lady's sister's, and you were not sure whether you came back or whether you stayed at the sister's all night. Now, if you stayed at the sister's all night, then of course, on the 13th James would not have found you home at half-past ten?

"A. Oh, no, then it must have been the 13th then that he came around to see me.

"Q. Then, you could not have stayed at the sister's all night that night?

"A. No, I am off on those dates there somewhere, either one or the other.

"Q. Well, the 13th would be Wednesday.

"A. Yes.

"Q. The 12th would be Tuesday?

"A. Oh, on the 13th I stayed over there all night.

"Q. Then, you came home on the 12th?

"A. I was home on the 12th.

"Q. All right then it was the 12th that James came to the house, or was it Thursday, the 14th?

"A. No; I worked all day, worked the 14th, 15th and 16th.

"Q. Then, it must have been the 12th, or was it—I don't mean to insist that—

"A. Well, I am just as anxious to get this thing right—

"Q. Well, now let's go over that again; we have got plenty of time. You caught cold on Monday, the 11th, and you had pains in your chest and through your kidneys?

"A. My back and my legs, I got chilled.

"Q. You stayed in bed on the 12th?

"A. Yes.

"Q. Now, then, you said that James had heard that you were ill at the office and said he had business out that way and came out?

"A. You see, on Tuesday and Wednesday of that week I don't think I worked either. Oh, well, then that would be all right, but that is the reason why I am mixed up on what day he was there, because it was both days, see?

"Q. Then, it either might have been the 12th or 13th?

"A. Either the 12th or 13th, yes.

"Q. Now, then, let's start at Wednesday, the 13th, and see how that works out. You didn't work then—you were ill then?

"A. Yes.

"Q. You didn't work all day?

"A. No, wait a minute; I don't know whether I went in there in the afternoon or not. I will tell you, Mr. Straw, I am mixed up on these dates there, the 12th and 13th, I will have to—

"Q. All right; now, let's take our time and see if we can work it out. You remember that you did not work Tuesday and Wednesday because you were sick, or at least you did not work all day Tuesday?

"A. No.

"Q. Now, then, on Wednesday you were still sick?

"A. Yes.

"Q. Now, the next question is, did you go in in the afternoon? You said you did not go in in the morning.

"A. I'll be dog-gone if I can recall it; I am darned if I can.

"Q. Well, you are sure you did not work in the morning anyway, aren't you?

"A. On the 13th?

"Q. Wednesday?

"A. Yes, I didn't work then. I say I didn't, but damned if I know whether I did or not. That is the reason why I have told you, I have had so darned much time off lately, the first thing I know I will be getting fired, and yet they know how I have been feeling because they could see it themselves, the president and treasurer of the company and everybody, they could see that I was going down.

"Q. Now, let's get to the evening; maybe we can get back to the afternoon that way. You said that in the evening you stayed all night at the sister's house on Wednesday night?

"A. On Wednesday night, yes.

"Q. Now, let's go back from the point where you would stay all night to the early evening. Now, do you recall what you did in the early evening of the Wednesday night that you stayed all night at the sister's? Maybe that will help?

"A. I think that we had dinner that night at her sister's.

"Q. Now, do you remember what time?

"A. Now wait a minute.

"Q. Excuse me—

"A. Yes, I think I had dinner at her sister's house that night.

"Q. That is on the 13th?

"A. Yes, Wednesday. I am almost sure we had dinner that night and stayed all night. I know we stayed all night there that night.

"Q. Now, do you recall what time you got there?

"A. Well, if I had dinner, we must have been there early.

"Q. Now, I am trying to trace back instead of trace forward. Do you remember when you met Mrs. McGarvey and took her to dinner to the sister's?

"A. When I met her or where I met her?

"Q. Well, let's try where and maybe that will fix when?

"A. Well, you see, I met her every night that week.

"Q. Did you always meet her at the same place that week?

"A. No, different places. No, I can't recall where I met her, but I know I have gone there ahead of her, you know, and waited there for her to come from where she works, and it may have been that way that night.

"Q. Now, that brings us down to supper-time. Now, then we had up until noon, because you were ill in bed up until noon?

"A. Yes.

"Q. And we have down from supper-time or dinner-time on?

"A. Yes.

"Q. Now, do you recall between noon and dinner-time whether you were ill or whether you were out or where you were?

"A. Well, it was as I said before, either on—Or did we correct that, about what day Mr. James came to see me?

"Q. Well, we left it either Tuesday or Wednesday, because you said you were in bed both days, at least in the morning, and it might have been either day, because you came home, you said, to sleep Tuesday night, but you didn't Wednesday, therefore you said it might have been either Tuesday or Wednesday morning that he came, so we left that either the 12th or the 13th.

"A. I think it was on a Tuesday that Mr. James was there.

"Q. All right; now, let's go to the afternoon of Wednesday. Does that bring back anything in the afternoon?

"A. I will be dog-gone if I— It is a blank to me about Wednesday afternoon, but that will come to me later, as I get thinking about this.

"Q. All right; now, then, let's take Thursday, the 14th, in the morning.

"A. Now, we stayed over there all night, and the company told me that if I was not feeling well that it was not necessary for me to report in the office on time, if I felt like sleeping a little later I could and then come in late. So when I got up that morning

in Philadelphia we had breakfast, and I think it was around about half-past nine or quarter to ten that I left there, to come over to the Camden office, and I worked all day.

"Q. Now, you came direct to the Camden office?

"A. Right direct to the Camden office.

"Q. And you worked all day?

"A. Yes.

"Q. And did you go home for supper in the evening?

"A. I think that night I had dinner at this Chinese restaurant.

"Q. At 11th and Market?

"A. It is either 11th or 12th.

"Q. Philadelphia, second floor?

"A. Yes, it is right up on the second floor there, Kong Wong Kew or some dog-gone name like that.

"Q. And what did you do in the evening?

"A. Met this girl.

"Q. Do you recall where?

"A. To tell you the truth, Mr. Straw, I don't know where I met her, but I know I was with her that night.

"Q. Now, did you come home that night?

"A. Yes, I was home that night.

"Q. Do you remember when?

"A. At what hour?

"Q. About?

"A. I should judge I got home about midnight that night.

"Q. Now, did you see James that day?

"A. No.

"Mr. Painter: What date is that?

"Mr. Straw: Thursday, the 14th.

"Q. I forgot to ask you that Tuesday, on the morning of the 12th, Tuesday, James came to see you; did you see him on the morning of the 13th?

"A. You see, if it was the 12th I saw him, I didn't see him the next day.

"Q. But if it was the 13th you saw him, you didn't see him on the 12th?

"A. Yes, either one or the other."

By Mr. Painter:

"Q. You say he stayed an hour with you?

"A. About an hour.

"Q. At your home?

"A. Yes.

"Q. On Liberty Street?

"A. Yes."

By Mr. Straw:

"Q. Now, then, Friday, October 15th?

"A. I worked.

"Q. All day?

"A. All day, yes, Friday, the 15th. I wasn't in the office there; I went to Philadelphia on some private business, went to the president of the company in the afternoon.

"Q. You mean you were in the Philadelphia office in the afternoon and the Camden office in the morning?

"A. Yes, Mr. Straw, I would like to— Let's see— on the 14th I said I worked all day, didn't I?

"Q. Yes.

"A. Now, I am not positive whether it was the 14th or the 15th I was in the Philadelphia office, but it was either one day or the other. Probably you could find out from the company.

"Q. Who did you see there?

"A. Why, Mr. Wood, he is the purchasing agent and Mr. Gindhart, and Mr. Cook.

"Q. What is Mr. Gindhart?

"A. He is the head of the contract department. Well, in fact, I saw very near—well, not very near all of them over there, but quite a number of the boys, you know; they were making arrangements for a little campaign over here, and we were talking it over.

"Q. What about Mr. Cook, what is his official position?

"A. He is president.

"Q. I thought Mr. Folwell was the president?

"A. No, Mr. Cook.

"Q. Now, where did you have dinner that evening, Mr. Schuck?

"Q. This God-darned dinner stuff—if I would stay home once in a while I could remember. I don't remember whether I had dinner at home or whether I had it in Philadelphia that night.

"Q. Do you remember what you did in the evening?

"A. Yes, I met this girl.

"Q. Where?

"A. At her home.

"Q. Do you know what time you got there?

"A. Now, let's see—now, I am not positive whether I went to her sister's first or whether I went direct to her house; I think I went to her sister's on the 15th. Yes, gosh-darn it, I did; I went to her sister's on the 15th. I had dinner in Philadelphia, that was at the Chinee restaurant.

"Q. What time did you get to the sister's home?

"A. When I went in there they were eating dinner, so it must have been around half-past six or seven o'clock, I guess.

"Q. Now, do you remember what you folks did that evening?

"A. Well, her brother-in-law has a Buick automobile and they were going out to her home, see, so I went right on out home with them.

"Q. That would be her brother-in-law?

"A. No, her brother-in-law's brother; that is right.

"Q. Is that in Philadelphia?

"A. Yes, he lives in Philadelphia, too.

"Q. Whereabouts?

"A. He works there at the corner of 7th and Girard Avenue in an ice cream store, he makes ice cream or something down cellar for them.

"Q. How long did you stay out there?

"A. Well, when we got out there the family had a little sociable game of cards or something on and her sister wanted to take a ride, and she coaxed this fellow to take her for a ride, so finally he consented and we took my girl's mother or the sick girl's mother and—let's see, there was that fellow that owned the car and the sister, the sick sister, there was my girl and her mother and I sitting in the back.

"Q. Took a ride in the Buick?

"A. Yes, took a ride on the new Boulevard away out Philadelphia somewhere, they opened up a new Boulevard or section of it or something, and we rode all the way to the end and around through the country and back, came back on the Boulevard again. I guess we were riding for a couple of hours probably.

"Q. Then, what did you do after that?

"A. I think that night they let me off at 15th Street and I got on the "L" and came on home.

"Q. And what time did you get home?

"A. Well, I can't give you the exact time; it was late, see.

"Q. Well, did you see Mr. James that day?

"A. No, no.

"Q. Now, Saturday, the 16th?

"A. I worked on Saturday.

"Q. All day or until noon?

"A. Yes, I was in the office I guess until about, oh, probably half-past two or three o'clock, maybe it was later, I don't know; I had a little work to do around there and I stayed in trying to catch up with some of the time I had been off. On the afternoon of the 16th, after I left the office I was home.

"Q. Did you have supper there, Mr. Schuck?

"A. I think I did. I wish I didn't have to say that I thought I did; I wish I knew.

"Q. Now, in the evening?

"A. I was in Philadelphia, met this Philadelphia girl.

"Q. Do you recall what time you met her and where?

"A. I met this girl so much in this last year since I met her, really I can't tell you what time I met her. I usually met her around half-past seven, eight o'clock, quarter after eight, half-past eight.

"Q. Now, this is Saturday night?

"A. Yes, but I went to Philadelphia early today to meet her.

"Q. Well, what did you do that night?

"A. We stayed at her sister's that night, that night and Sunday.

"Q. What is the sister's name, Mr. Schuck?

"A. That is Anna Weingener. Dog-gone, I never spelled her name ever since I have been going over there, I can't tell you how you spell it.

"Q. What is the address?

"A. I think it is 638 Girard Avenue. That is only a guess, see; of course, I knew how to get there, knew where it was and I never bothered about the number.

"Q. Now, you stayed there all night, did you?

"A. All night Saturday and Sunday.

"Q. Did you see Mr. James on Saturday?

"A. I saw him and his wife Saturday afternoon after I left the office, but I wasn't talking to him.

"Q. Where did you see him?

"A. It was on Federal Street right between 3rd and 4th, it was near the office there; right after I left the office I saw them going out in a machine, he and his wife.

"Q. In James' machine?

"A. I guess it was, as it was a Ford.

"Q. Now, then, Sunday, October 17th?

"A. I was at the sister's.

"Q. Stayed at the sister's all day?

"A. All day, I think we took a ride that afternoon, Sunday.

"Q. What kind of ride in what?

"A. In this brother's car.

"Q. A Buick?

"A. Buick car, yes, the same one.

"Q. Do you remember where you went?

"A. Oh, Lord, he took me through places in Philadelphia I was never through before in my life, I don't know, all out around the park, Fairmount Park—I remember going through there, remember the cop stopped us on Sunday because we had so much smoke in the back, he wouldn't allow us to go through a certain section, we had to get out.

"Q. Did you come over into Jersey at all?

"A. That day?

"Q. Yes.

"A. No.

"Q. Now, did you come home Sunday night?

"A. Sunday night, yes.

"Q. What time did you get home, about?

"A. Well, I should judge about—I guess around about half-past ten, got home early that night, something unusual.

"Q. Did you see James that day at all?

"A. No.

"Q. Monday, October 18th?

"A. I was sick on the 18th, 19th, 20th, 21st; yesterday was the first day I was out.

"Q. Tuesday, October 19th, Wednesday, October 20th and Thursday, October 21st, sick in bed?

"A. Yes, had Dr. Moore.

"Q. Mt. Ephraim Avenue?

"A. Mt. Ephraim Avenue, yes.

"Q. Now, you were not out any of those four days?

"A. Not a day, no.

"Q. And did you see James any of those four days?

"A. No. Jesus, you fellows have got James locked up—how could I see him?

"Q. That was a slip of the tongue. Now, you got out Friday, October 22nd; you didn't work then, or did you?

"A. Well, I will tell you, on Friday it seems that the doctor told me that—I think it was Mr. Doran, he called him up, or the Prosecutor or somebody called him up and wanted to know when I was going to get better, and I didn't know what the dickens to tell them, and I thought why, the authorities inquiring for him, that I was wanted, see, but yet nobody had been at the house to say anything, so I got dressed, and I thought, 'Well, I will go call the Prosecutor up or go see if he wants me;' and just then the doctor came in and we got to talking the thing over and I told him I was going up and he said, 'Has anybody sent for you?' I said, 'No, nobody sent for me.' He said, 'Well, I wouldn't go up until they send for you then.'

"Q. Well, did you work on Friday, Mr. Schuck?

"A. No, no, I haven't worked all this week.

"Q. Well, did you go out yesterday?

"A. Yes.

"Q. What time did you get out of bed in the morning?

"A. Oh, I guess around eleven o'clock maybe it was later, maybe it was earlier.

"Q. What did you do yesterday?

"A. Yesterday I went around—I took a walk around through Parkside; I was weak from lying in bed, and I took a walk out around through Parkside, and I ended up in Robinson's house.

"Q. Now, did you have lunch at home?

"A. Yesterday?

"Q. Yes.

"A. I had breakfast.

"Q. Breakfast and lunch together?

"A. All I had was soft-boiled eggs and milk all the week.

"Q. Then, you were in Parkside in the afternoon?

"A. I was in Parkside in the afternoon, yes.

"Q. Were you home for supper?

"A. No, I had supper at Robinson's.

"Q. And what did you do in the evening, Philadelphia?

"A. Called up my girl; I was sick all week and she was worried, she said, 'I want to see you tonight.'

"Q. What time did you go over?

"A. So I goes—I met her at her sister's last night.

"Q. Do you remember what time?

"A. I should judge it was around about eight o'clock; it may have been before, it may have been a little after, I don't know, it was somewhere around eight o'clock I got there last night, and I called her

and told her the doctor told me to be in bed early, and I wanted to leave early, and we got chewing the rag and chewing the rag, and I didn't leave until late.

"Q. What time did you get back?

"A. I guess it was around half-past twelve or one o'clock. I know it was God-darned late for a sick man to be getting home.

"Q. Now, today, Saturday, October 23rd?

"A. It seems to me the closer I get to the time I was out the more I have to think about it.

"Q. You didn't work today, did you?

"A. No, sir. What the dickens did I do today? That is a funny one. I didn't get out of bed this morning until about, I guess it was eleven, about half-past eleven, I should judge I got out of bed.

"Q. Then, after breakfast or lunch what?

"A. Oh, my brother came around after me.

"Q. What time?

"A. I guess I was taking a bath when he came around; it was after one o'clock, I know; between one and two, some time, and he told me that he was going down to Stratford to borrow a little Ford yellow roadster that belonged to a friend of his, and he said he could use it, so I asked him if I couldn't go along for a ride. So we went down to Stratford to get the yellow roadster, and coming on back, it came to my mind from reading the newspaper stories about the yellow roadster wanted down the country, I thought, 'Gee, suppose I am picked up on a yellow roadster.' I was driving it.

"Q. Where did you get the yellow roadster?

"A. I think the man's name was Bill Jones; I am not positive about it.

"Q. Where does he live, Mr. Schuck?

"A. You know as you go down the White Horse Pike there is a road-house called the White Horse Hotel, and then you make a turn, like, on the left?

"Q. Yes.

"A. And there is a feed and grain store just before you turn to the right?

"Q. Yes.

"A. Well, it is right there where we got the yellow roadster; it is in Stratford, see, just below the hotel.

"Q. What time did you get home, Mr. Schuck?

"A. Well, I left him on Kaighn Avenue, and what time it was I don't know, Mr. Straw; it was, I should judge, around about four o'clock, may have been 4.30. He had his wife with him; we were pretty well jammed in the thing, and I got out there at 9th and Kaighn Avenue and he went on home, and I waited for a jitney and went down to the ferry, got across the river and went over in Philadelphia.

"Q. Now, where were you tonight? What time did you leave the lady tonight?

"A. We went up to her sister's; I called her and told her to meet me at her sister's where we usually go on Saturdays and Sundays. She said as soon as she could get ready she would come over, so in the meantime her brother-in-law's brother and I had dinner, I think at 4th and Girard Avenue, there was a hotel or something there; it was a saloon at one time, and we had dinner in there, between half-past six and seven o'clock tonight.

"Q. 4th and Girard Avenue?

"A. Yes: it is 4th and Girard Avenue.

"Q. Then, you went up to the sister's and stayed there until you came over here?

"A. Well, when we left the resturant, walking over to 638 Girard Avenue, I ran into this girl, you

know, then she told me that my brother had called up, called her and said for me to call dad right away. I called up dad, and he said there had been some men at the house for me and to come right over. I said, 'All right, I will come over just as soon as I can.' And so I came over and met you fellows. Now, Mr. Straw, I may be mistaken a little bit in some of that, you know.

"Q. Sure; well, we can straighten it out.

"A. In such a short time, thinking about these things, you know. Dog-gone, if I could get a copy of this stuff, what I said, I could make corrections as I thought about it, but I don't suppose you fellows give copies.

"Q. Well, I will have to ask Mr. Wolverton about that. Now, just a minute—

"A. That is a darned hard thing, too, to sit down and try to remember where you have been every hour, mornings and afternoons. I am God-darned glad it is not two or three more weeks that I have to give an account of."

No cross-examination.

NELSON HICKMAN, sworn.

By the Prosecutor:

Q. Mr. Hickman, where do you live?
A. Newport, New Jersey.
Q. Newport, New Jersey?
A. Newport.
Q. Is that a settlement in Cumberland County?
A. Cumberland County.

Q. Do you know the defendant, Raymond Schuck?

A. Yes.

Q. How long have you known him?

A. About five years.

Q. On October 25th last did he come to your house?

A. Yes, sir.

Q. And how long did he stay?

A. He came Monday and left Friday.

Q. While at your house did you have any conversation with him relative to the Paul case?

A. I did.

Q. What have you said to him or what did he say to you?

A. Well, it was in the paper about James being locked up, and I asked him if he thought James had anything to do with it.

Q. To do with what?

A. The Paul murder case.

Q. What did he answer?

A. "I don't think he did."

Q. You mean that was the answer he gave or you don't think he did give an answer?

A. That is what he told me, he said, "I don't think he did."

Q. "I don't think he did." Did you have any conversation with him as to whether he knew anything at all about it?

A. I said, "Doc"—I used to call him Doc—I said, "Doc, who do you suppose did kill that fellow?" He says, "Well, I don't know," he says, "he was a ladies' man, I think he has been off with some strange wild woman and she has perhaps copped him off."

Cross-examination.

By Mr. Carrow:

Q. What was the defendant's physical condition when he was at your house?

A. Well, when he came he was very nervous. He told me he had just got out of bed and he had the appearance of that. He wasn't at all well when he was at our house, he was taking doctor's medicine, I think from a doctor named Johnson. When he went away he left one of these bottles there; he wasn't in no good physical condition, very nervous. I don't think he slept but one night while he was there, one night he told me he had a good night's rest.

HELEN DEAN, sworn.

By the Prosecutor:

Q. Mrs. Dean, where do you live?
A. 214 Federal.
Q. Is there a place of business at 214 Federal?
A. No. 212.
Q. Are you employed at any time?
A. I work for my father between eleven and two.
Q. Between eleven and two where?
A. In the morning, eleven o'clock in the morning until two in the afternoon.
Q. You are the daughter of Robert Turner, the oyster house man on Federal Street?
A. Yes.
Q. What is the number?

A. 212 Federal Street.

Q. You say you worked there in the afternoon or between eleven and two?

A. Yes, sir.

Q. Do you know Raymond Schuck?

A. Yes, sir.

Q. Was he in your father's oyster saloon at any time since you have known of the disappearance of David Paul?

A. Yes, sir.

Q. And the arrest of Frank James?

A. Yes, sir.

Q. When was he in the oyster saloon?

A. Well, two or three days before he was locked up.

Q. Did you have any conversation? For what reason was he in there?

A. To get his lunch, I suppose.

Q. Who waited on him?

A. I don't know who waited on him, one of the waitresses.

Q. Did you speak to him?

A. I did.

Q. What did you say to him?

A. I went over to him, and I said, "I see they have your friend James in a lot of trouble," and he said to me, "They haven't anything on him; somebody has got to get the blame for this, so I suppose it will be him," and I must have asked him if he knew Mr. Paul, and he said he never knew the man.

Mr. Carrow: Now, wait a minute; the witness stated that she must have asked him something about Mr. Paul. I think she ought to state that more definitely.

The Witness: Well, the reason I say so is because he said—

The Court: Now, just wait a minute, Mrs. Dean. Will you just, Mr. Stenographer, give me the witness' entire answer, and perhaps you had better read me the question and then give me the answer.

Mr. Carrow: If your Honor please, it wasn't in response to a question; she was just going on in a general way.

The Court: I thought the question was broad enough to cover any conversation that she had with Mr. Schuck on this occasion, but as long as you have called my attention to it, I want to be sure I understood the question, so I will just have it read.

(Former question and answer repeated by the stenographer.)

The Court: Well, now, I think that the answer is perhaps a little bit broader, but it is admissible, but if you want it stricken out I will strike it out and Mr. Wolverton can ask a question as to the full conversation, if you want.

Mr. Carrow: Well, that is all right.

The Court: Would you rather have it that way? Very well, I will strike the latter part of the answer out. Now, Mr. Wolverton, if you will, frame the question so as to bring out what she said to Mr. Schuck and what Mr. Schuck said to her on this occasion.

Q. Will you give us the entire conversation that you and Mr. Schuck had relative to the Paul matter.

A. Shall I repeat everything I have said?

Q. Everything he said and everything you said.

A. I went over to the table, and I said, "I see they have you a friend James in a lot of trouble." He replied to me that, "They haven't anything on him—

Q. Speak a little louder, please.

A. "That they haven't anything on him, somebody has to get blamed for it, so I suppose it will be him." I asked him if he knew Paul and he said he did not, he never saw the man or didn't know the man. That was all I said.

Cross-examination.

By Mr. Carrow:

Q. And that was all he said?

A. That was all he said.

Benjamin Abrams, sworn.

By the Prosecutor:

Q. Mr. Abrams, where do you live?

A. 1265 Park Boulevard.

Q. Do you hold any position with the Keystone Telephone Company?

A. Assistant superintendent.

Q. Is that the same company that Mr. Schuck was employed by?

A. Yes, sir.

Q. How long have you known Raymond Schuck?

A. In the neighborhood of about ten years.

Q. What position did he have with your company?

A. He started in as a collector and he was elevated to cashier.

Q. What salary did he get in October last?

A. $20 a week, I think.

Q. On October 5th last did you see Schuck?

A. What date was that?

Q. October 5th?

A. Yes, sir.

Q. Where?

A. Eastern Telephone Company, 3rd and Federal.

Q. At what time?

A. The last time I saw him was about twenty minutes after twelve.

Q. Did you have any conversation with him or he with you as to where he was going?

A. On October 4th he made a remark in the office that he wanted to get through early on the 5th as he wished to go to the World's Series.

Q. Where?

A. New York.

Q. Did he say on Tuesday whether he was going or not?

A. I did not hear him say that Tuesday.

Q. Did he say when he would be back?

A. He said he would be back in a day or two.

Q. Have you since the disappearance of David Paul and the arrest of Frank James had any conversation with Schuck as to the Paul case?

A. I did once.

Q. When was that?

A. That was, I believe about a day or two before he was going to the Grand Jury up in Burlington County.

Q. What conversation did you have with him?

A. Well, he was at my home, and I said, "Raymond, you and I have been pretty good friends; I respect your family, and my advice is to you, if you know anything about this affair, why, and if you are innocent, go see the Prosecutor and make a clean breast of it," and, I says, "I think he will take care of you." He says, "Mr. Abrams, I don't know a thing about it; if Mr. Paul had stood in front of me I wouldn't know him."

Q. If Mr. Paul was what?

A. If Mr. Paul had stood in front of him he wouldn't know him.

Cross-examination.

By Mr. Carrow:

Q. Mr. Abrams, what were his duties as cashier?

A. Why, to collect moneys and take it to the bank and hold the bank book for the same.

Q. Was he responsible for the moneys collected?

A. He was.

Q. Until it was turned over to the company?

A. Yes, sir.

Q. Have you any idea as to the amount of money for which he would become responsible during the course of a week?

A. Well, at times he had as high—what do you mean, to go to the bank with?

Q. Yes.

A. Why, as high as sometimes $1500, $1600, $1700, maybe, more or less.

Q. Did he ever have that in his possession any length of time?

A. Well, I have known him to have about $1500 to to $1600 in his possession about a week or ten days.

Q. Not short in his accounts, is he?

The Prosecutor: I object; I would like to go into that if he will call Mr. Abrams as his own witness, if it is not cross-examination.

Mr. Carrow: I will withdraw the question, if the Court please.

By the Court:

Q. Mr. Abrams, was Mr. Schuck under bond to the company?
A. Yes, sir.

Frank Voigt, Esq., sworn.

By the Prosecutor:

Q. Mr. Voigt, where do you live?
A. Merchantville, New Jersey.
Q. Do you know the defendant?
A. Yes.
Q. Raymond Schuck?
A. Yes.
Q. On the afternoon of November 4th last did you have a conversation with him?
A. Well, I don't know whether it was November 4th or not.
Q. Can you fix it with relation to the time that he went to Mount Holly?
A. I had a conversation with him just before he went to Mount Holly.
Q. With reference to the Paul case?

A. Yes.

Q. What was said by Mr. Schuck to you concerning the Paul case or by you to him?

A. Well, Raymond went by in a car, and as I was coming out of my office he saw me and stopped the car, and I walked over and talked to him, that is, I asked him how he was, and he said he was fine, and I knew that for some time he had been under surveillance—

(Objected to.)

The Court: No, don't state what you knew, no; that will be stricken out.

Q. What did you say to him?

A. Well, I simply said this, "How is it you are out?" "Why," he said, "I didn't know anything."

Q. Did you speak to him about James?

A. Yes, I asked him, I said, "Well, your friend Frank James is in a fine jam," and Raymond says, "Yes, but," he says, "he doesn't know any more about that crime than I do," and he asked me if there wasn't something that could be done when a man was falsely accused of a crime.

Q. Who was he referring to?

A. To the authorities.

Q. I know, but who was he referring to, something could be done for whom?

A. To the authorities for keeping James when he was not guilty of the crime. So I said, "No, I don't think there is, Raymond, because it is, as I understand it a police power that they have; it is for your protection and my protection, and if James doesn't know anything about the crime he hasn't anything to fear." It was then that I mentioned, I said, "They

had you under surveillance." He said, "Yes, but," he said, "I didn't know anything, and," he says, "they are watching me yet." I says, "What?" I was talking to him, and I says, "What?" He says, "Yes." He says, "Come on and take a ride." I said, "You go to hell; I won't take any ride with you," and that ended the conversation.

Q. And then he drove away?

A. And then he drove away.

No cross-examination.

The Prosecutor: If your Honor please, the hour of adjournment is so close at hand and the next witness whom I have to call would take, I think, probably the best part of an hour or more. Is it the desire of the Court that I should start with the witness, or would you prefer that we adjourn at this time?

The Court: Would your preference be to adjourn? It is so near the hour of adjournment—

The Prosecutor: Yes, that is the reason I call it to your attention.

The Court: Yes, then the Court will adjourn, but before any of the audience leave I ask that the jury withdraw, and we will convene tomorrow morning at 9.45.

(At this point a recess was taken until Thursday morning, February 17, 1921, at 9.45 o'clock A. M.)

FOURTH DAY.

Camden, New Jersey, February 17, 1921.

(Trial of the cause resumed at 9.45 o'clock A. M. on the above date, pursuant to adjournment, in the presence of the defendant and counsel for the respective parties.)

MARGUERITE GARDINER, sworn.

By the Prosecutor:

Q. Miss Gardiner, where do you live?
A. 1182 Jackson Street.

The Court: Will you please speak louder?

A. 1182 Jackson Street.
Q. On October 7th last were you talking to Dr. Ely, the druggist?
A. Yes, sir.
Q. Where is his place of business?
A. Mt. Ephraim and Thurman.
Q. At that time was Mr. Schuck, the defendant, there?
A. No, sir, he came along.
Q. He came along as you were talking?
A. Yes, sir.
Q. Did you hear anything said between himself and Dr. Ely?
A. Ely told him—

Mr. Carrow: No, Miss Gardiner, that question I think demands a specific answer yes or no before the witness goes into what was said. It might have been something altogether foreign to the matter which we are trying here.

The Court: Well, the witness can state, Mr. Wolverton, whether she did hear a conversation between the defendant and Dr. Ely, I think it is.

Q. Yes, or no?
A. Yes.
Q. Who spoke first?
A. Well, I really can't remember who spoke first.
Q. What was said by Dr. Ely to Mr. Schuck?
A. He said, "Look at the sport."
Q. He said, "Look at the sport"?
A. Yes, sir.
Q. What else?

Mr. Carrow: Now, wait a minute, if your Honor please; I don't think that that kind of testimony is fair. It seems to me that the Prosecutor should direct this conversation to some material point in this case.

The Prosecutor: It is the answer to this question that I was endeavoring to get.

Mr. Carrow: He can get that by a direct question.

The Court: I will permit the question to stand; it may have a bearing upon this case.

A. He said, "If you had my sock you wouldn't work, either."

Q. Who said that?
A. Mr. Schuck.

No cross-examination.

ANNA E. Yoos, sworn.

By the Prosecutor:

Q. Miss Yoos, where do you live?
A. Near Mt. Holly, New Jersey.
Q. Where are you employed?
A. In Mr. Parker's office.
Q. In what capacity?

The Court: Please speak louder, Miss Yoos.

Q. In what capacity?
A. Stenographer.
Q. How long have you been a stenographer?
A. About two years.
Q. On November 5th, 1920, last were you at the Mt. Holly jail?
A. Yes, sir.
Q. Who else were present?
A. Mr. Parker and Raymond Schuck.
Q. At that time were certain questions directed to Mr. Schuck and answers given by him?
A. Yes, sir
Q. Prior to the asking of those questions by Mr. Parker and the giving of the answers by Mr. Schuck, was anything said by Mr. Parker to the defendant as to the purpose of the questions?

Mr. Carrow: Now, Miss Yoos, just before you answer that—if your Honor please, I presume that the Prosecutor is about to introduce a confession made by this defendant, and I object to its introduction at this time because he has not laid the foundation for it properly. There has been no proof of the corpus delicti, and in this case the most that the State has proved so far that Mr. Paul was seen alive in Camden on October 5th and that he was next—his body was found dead in Burlington County on October 16th, and that his death occurred on October 13th. Now that is all they have proven in regard to the actual commission of this crime. I take it that the law is that there is an assumption that the death occurred where the body is found. Now, if the State has not proved the corpus delicti, that is, that the death occurred within the jurisdiction of this Court, they cannot introduce the confession of the defendant in order to establish that very point, and that is what they are seeking to do here. I maintain that the corpus delicti has not been sufficiently established and ask that this confession be ruled out at this time.

The Prosecutor: If your Honor please, I would say that the statement which the young lady is to be called upon to testify to, if your Honor admits it, is not in the nature of a confession; it is in the nature of a statement in which the defendant denies any knowledge of the crime whatsoever, so it is not in the nature of a confession.

Mr. Carrow: That may be very true, if your Honor please, but nevertheless, the essential elements upon which the State will depend to prove their case against this defendant rest right in that confession, in other words, by that confession they

seek to prove where the crime was committed; and I respectfully submit they cannot do it in that manner.

The Prosecutor: If the Court please, Mr. Carrow speaks with all the assurance that the Prosecutor does who has already seen the statement.

Mr. Carrow: I was there when it was made, so I know.

The Prosecutor: I beg the pardon of counsel for the defendant, he was not there when this statement was made.

Mr. Carrow: Oh, well, pardon me, if it is some statement that I have no knowledge of; nevertheless, I think counsel—

The Court: Have you finished, Mr. Wolverton?

The Prosecutor: Yes, sir.

The Court: Well, then, I was going to say that the statements that this witness heard made by Mr. Schuck will be received in evidence. So far as the question as to whether the corpus delicti has been proven or not I think the corpus delicti has been sufficiently proven. I might perhaps add that the facts unquestionably are that Mr. Paul disappeared on October 5th and was last seen in the City of Camden; his body was discovered on October 16th in Burlington County. There is no question but what the evidence proves that the body found was the body of Mr. Paul, and that Mr. Paul's death was the result of blows administered upon the head; therefore, it is unquestionably proven that Mr. Paul was killed.

Now, then, so far as to whether or not the blows struck were in Camden County or whether Mr. Paul died in Camden County or in Burlington County, that is not in my opinion material at this stage of the case, and I do not think that you could even draw the inference, Mr. Carrow, that his body being found in Burlington County, the blows necessarily took place in Burlington County. But that is rather aside perhaps from what it is necessary for me to decide at this time, and I decide that this statement which this witness overheard is admissible in evidence.

Mr. Carrow: May I have an exception, if the Court please?

The Court: And if you desire an exception, of course, it will be granted by the Court.

(Exception for defendant.)

(Signed and sealed accordingly.)

FRANK S. KATZENBACH, JR.,
J. (Seal)

JOHN B. KATES,
J. (Seal)

Q. Now, Miss Yoos, did you make a stenographic record or notes of what was said by Mr. Parker and what was said by the defendant, Raymond Schuck, on this occasion on November 5th in the county jail in Mount Holly?

A. Yes, sir.

Q. Have you those notes?

The Court: I will have to ask you to speak a little louder. Can you gentlemen hear that are farth-

est away from the witness? Gentlemen of the jury, can you hear what the witness says?

A Juror: No, not distinctly.

The Court: Now, Miss Yoos, I will have to ask you to elevate your voice so that these gentlemen can hear.

Q. Have you those notes with you?
A. Yes, sir.
Q. Refreshing your recollection of what was said on that occasion by referring to your notes, will you inform us what was said by Mr. Parker and what was said by Raymond Schuck?

Mr. Carrow: Now, just a moment, I object on a further ground, if the Court please. There is no testimony yet from Miss Yoos to the effect that this defendant was warned that what he said would be used against him in court, or that he knew to whom he was speaking.

The Court: Well, on that point—

Mr. Carrow: The Prosecutor asked the witness that but—

The Court: I can perhaps state that in the first place, unless it is in the nature of a confession, a warning would not under any circumstances be necessary, if it is a mere statement, which the Prosecutor has said, a denial of his guilt by Mr. Schuck, of course, it is admissible in evidence, and in the next place, I think if we proceed just a minute or two, I have no doubt that it will develop that among the

first statements made by Mr. Parker were statements of the character that you are inquiring for.

Mr. Carrow: Well, if the Court please, if these statements do not occur, may I have the privilege of renewing my motion?

The Court: Oh, you may have the privilege of making any motion that you desire if they do not occur.

Q. Proceed, Miss Yoos.

A. "Statement of Raymond Schuck taken at the county jail, on November 5, 1920, by Ellis H. Parker, stenographer, Anna E. Yoos."

Q. Now, read a little more slowly, please.

The Court: You must read very slowly and very distinctly. (To the jury.) Now, gentlemen, if you do not hear, will you please so signify.

A. (Reading.) "Q. Raymond, you know who I am? A. Yes, sir. Q. This is Miss Yoos, stenographer, taking down what we are talking about. Now, Raymond, you have been ordered by the Grand Jury to be locked up. Q. (By Mr. Schuck.) What is the charge? A. (By Mr. Parker.) They are investigating the disappearance of Paul who disappeared on October—"

The Court: Miss Yoos, you had better read a little slower than that, please; this is an important matter to both the State and the defendant, and you must read a little more slowly.

The Prosecutor: And your voice does not carry here, either, very well, so make it just as slow and distinct as you can.

The Witness: (Reading.) "They are investigating the disappearance of Paul who disappeared on October 5th from Camden, and whose body was found on the 16th of October last in this county. It is my duty as an officer to warn you that you do not have to make a statement unless you want to; anything you say might be used against you. Now, Raymond, I understand that you work for the telephone company—"

Mr. Carrow: Now, if your Honor please, I think that is about as far as the warning goes. I think there are cases, in fact, I know there are cases which are very particular on that point of warning by officers. Now, here was a man who was in an official capacity, he was county detective of Burlington County, and he says to Mr. Schuck, "You don't have to make any statement unless you want to, but if you do what you say might be used against you." Under the cases, the decisions in New Jersey, I respectfully submit that that warning is not sufficient, and again ask that this purported statement of the defendant be stricken out or not be permitted to be introduced in evidence.

The Court: The Court will allow the statement and grant you an exception, Mr. Carrow.

The Witness: (Reading.) "A. I did, yes. Q. With what company? A. The Eastern Company in Camden. Q. You were working for them on October 5th up until noon on Tuesday? A. I was working

that day, yes. Q. On October 5th at noon, that afternoon you didn't work, on the 6th you didn't work; on the 7th you didn't work; on the 8th you didn't work; on the 9th you didn't work of that week? A. I don't know about the 5th. Q. Well, on the 5th, the afternoon of the 5th, you and James were together, Frank James? A. We might have been to lunch together, because we were together lots of times. Q. (By Mr. Schuck.) Mr. Parker, why am I arrested? A. (By Mr. Parker.) You are detained here by order of the Grand Jury. Q. (By Mr. Schuck.) For what reason, got a charge of any kind? A. (By Mr. Parker.) Not at this time. Now, do you want to, of your own free will, give me a statement of your time? A. Didn't I give that to Mr. Wolverton?"

"Q. That has nothing to do with this county."

"By Mr. Schuck: Q. Well, to be candid with you, Mr. Parker, this is a serious thing. I don't like it. I will tell you this whole story if you will get my counsel, Russell Carrow, here, and find out if he can see me."

"Q. On Monday, the 4th, were you and Frank James together?

"A. On Monday afternoon, yes. We had lunch together and he met some girl, and we went to the bungalow.

"Q. Who was the girl?

"A. I couldn't tell you, Mr. Parker.

"Q. You went to the bungalow?

"A. Yes, sir; she was just a girl he picked up.

"Q. Where did he meet her?

"A. I think it was along Broadway, Camden.

"Q. Were you with him when he met her?

"A. Yes, I think I was.

"Q. What kind of a car did he have?

"A. Ford.

"Q. What kind of a looking girl was she?
"A. She was short and fairly good build.
"Q. How old?
"A. I should judge she is around 21 or 22.
"Q. Did he call her by name?
"A. No.
"Q. Didn't introduce her to you?
"A. No.
"Q. Did she call him by name?
"A. No, I think it was a sort of flirtation.
"Q. Did the both of you take her to this bungalow?
"A. Yes, we both went down.
"Q. That is, to Clementon?
"A. Yes, to Clementon.
"Q. What time was this?
"A. I think as a rule we had lunch together quite often, so it must have been around half-past one or two o'clock.
Q. And how long did you stay down at Clementon?
"A. I know I was home in time to get my dinner at five-thirty or six. He let me off right around home.
"Q. Did he bring the girl home with him?
"A. The girl was with him.
"Q. And you don't know who she is?
"A. Positively no.
"Q. Do you know what took place while they were there?
"A. No.
"Q. Were you with them?
"A. Sure.
"Q. Don't you know what took place.
"A. Well, I was downstairs playing music and he was upstairs with the girl.

"Q. Were you with the girl yourself?
"A. No.
"Q. How old are you?
"A. I will be 29 the 28th of this month.
"Q. Where do you live?
"A. 1139 Liberty Street, Camden.
"Q. Now, where did you go this night, this Monday night?
"A. I was home that night.
"Q. Didn't go away anywheres?
"A. No.
"Q. Are you sure?
"A. Positive.
"Q. The next day, on the 5th, which is Tuesday, what time did you quit work?
"Question by Mr. Schuck: Was that the day the World Series started?
"Answer by Mr. Parker: I don't know.
"Answer by Raymond Schuck: I remember talking to Week Stanton, an officer, at quarter after or half-past one.
"Q. Did you see Frank that night?
"A. No, I don't believe I saw Frank that afternoon.
"Q. Did you go anywheres that night?
"A. Stayed at home.
"Q. On the 5th?
"A. Yes.
"Q. And you didn't see Frank James that day?
"A. I can't recall seeing Frank that day.
"Q. Do you know David Paul?
"A. Never met the man.
"Q. Had you ever heard Frank James talk about him?
"A. Well, I think I saw him, meaning James, I think it was on the morning of the 13th when I was

sick in bed and he told me he had been away and he found out that Mr. Doran and the Prosecutor wanted to see him.

"Q. What else?

"A. He called Doran up and he told him to be at the Prosecutor's office at 7.30 and meet him, and he went up there and they tried to mix him up in Mr. Paul's disappearance.

"Q. On the 13th did you go away with him?

"Q. Question by Mr. Schuck: With Frank?

"Answer by Mr. Parker: Yes.

"Q. On the 6th did you go away?

"A. No.

"Q. Did you go to Philadelphia?

"A. Only during the evening.

"Q. Who did you see over there?

"A. I was over to a lady friend of mine's house, Mary McGarvey.

"Q. And you stayed until how long?

"A. That is on the Wednesday, the 6th. I got there about 6.30 and stayed until 11.30.

"Q. What did you tell her?

"A. I told her I won some money on the World's Series game. No, I did not tell her that that night. That must have been the following night.

"Q. What did you tell her you won?

"A. I told her I won somewhere around $2000.

"Q. Did you show her any of it?

"A. I had a little with me, yes.

"Q. How much did you show her?

"A. I don't know how much it was. I must have had twelve or thirteen hundred dollars with me.

"Q. What kind of bills were they?

"A. I had all denominations.

"Q. Mostly?

"A. Twenty-dollar bills.

"Q. Did you win them on the World's Series?
"A. No.
"Q. Where did you get them?
"A. Well, that can be explained later.
"Q. It is a good time now.
"A. No, I would rather not tell now.
"Q. How about the 7th?
"A. I didn't work on Thursday.
"Q. Where did you go?
"A. Got up late, went out, took a walk and went to Philadelphia.
"Q. What time?
"A. I think I went to her sister's house on Thursday, 632 Girard Avenue.
"Q. What time did you get there?
"A. I believe we were there in time for dinner in the evening.
"Q. How long did you stay?
"A. Around eleven or eleven-thirty. It might have been a little later.
"Q. Now, on Friday?
"A. Did the same thing. Got up late, went out, strolled around, went to Philadelphia. I got something to eat in a Chinese restaurant.
"Q. Do you have any idea what time you met her on Friday?
"A. I guess it was around seven or eight.
"Q. And stayed until eleven or twelve?
"A. About eleven o'clock, as near as I can guess.
"Q. How about on Saturday, the 9th of October?
"A. I don't know what I did. I was in town and met her that night.
"Q. Now, we will go back. The 6th, 7th, 8th or 9th, did you see Frank James?
"A. No.
"Q. Didn't see him at all?

"A. No.

"Q. Now, on Sunday did you see him?

"A. No, I was up to my sister's house all day Sunday.

"Q. On Monday did you see him?

"A. No, I think I worked on the 11th.

"Q. Now, the 12th?

"A. That is on Tuesday. No, sir; didn't see him.

"Q. Did you see Jesse Sage on Tuesday, the 12th?

"A. Oh, yes; Tuesday I was sick and Jesse came around Tuesday night and I was in bed.

"Q. Did you ask him to do anything for you?

"A. Yes, my boss was there, William T. Wood, but he isn't my boss now. He was there to see me. I asked Jesse to go out and call Mary and tell her I was sick. That was all.

"Q. Now, where were you on the 13th?

"A. It was on the morning of the 13th that Frank came to the house.

"Q. How?

"A. He said he had been to the office and they told him I was home sick in bed, so he had an errand to do and he said he would come to see me and find out how I was.

"Q. What kind of car did he come in?

"A. A Dodge car.

"Q. Who did it belong to?

"A. I think he said someone who lived at the village.

"Q. Did you go with him?

"A. I was going to take a walk. He said he was going to get his machine and I could drive one back. We went down to a cross-road and then to Nicholson's garage, and he wanted me to buy him a cushion, said he didn't have any money, so I bought him a cushion.

"Q. Where was Frank?
"A. He was over at the hotel.
"Q. What did you pay for it?
"A. Ten or ten-fifty.
"Q. And how was it he didn't go in with you?
"A. He had to go to the toilet.
"Q. You took the money out of your own pocket?
"A. Yes.
"Q. And then where did you go?
"A. Came back the same way. He got in his car and from there we drove to the village.
"Q. What village?
"A. To his village, Brooklawn.
"Q. And then what?
"A. Just as we got to the clubhouse he asked me what car he should use, the Ford or the Dodge. I said, 'Use the Dodge.' We took the old seat out of the Ford in the Dodge and a new seat in the Ford, and he put his Ford car away.
"Q. And then where did you go?
"A. After he got through talking to Mrs. James we went up Broadway and he took me home.
"Q. What did you do with the old seat?
"A. Threw it out on a dump.
"Q. Where?
"A. Broadway, near the Castle Kid Company.
"Q. How came you to throw it away there?
"A. Well, we couldn't throw it on the street somewhere.
"Q. Couldn't you have left it at the garage?
"A. It wasn't changed at the garage. It was changed while we were deciding which car to use.
"Q. Then, you didn't take the new cushion back to the garage where the car was?
"A. No."

The Court: Just read that last answer again.

The Witness: (Reading.)

"Q. Then, he didn't take the new cushion back to the garage where the car was?

"A. No.

"Q. You are sure?

"A. Positive.

"Q. He didn't want the garage man to take the new one and put it in another car and give him an older one?

"A. I don't know whether he asked it.

"Q. Wasn't you with him?

"A. I was sitting in the Dodge all the time.

"Q. Where were you on the 14th?

"A. On the morning of the 14th I worked. I was there until about two o'clock or a little before, and I was chilled through. I had a cold and we have a gas heater, and I was sitting up on the desk because my feet were cold, and I told the stenographer I was going to take a walk, and I walked to my sister's.

"Q. Did you give your wife ten dollars to say that you were home on the 5th and and 6th?

"A. I did absolutely no.

"Q. Did you give your wife three twenty-dollar bills and take them away again?

"A. No, I gave her some money.

"Q Did you go with this girl and didn't tell her that you were a married man?

"A. For a while.

"Q. How long?

"A. I should judge probably a year or nine months. It might have been sooner than that.

"Q. When was it that she found out that you were a married man?

"A. I couldn't tell you the exact date.

"Q. Within the last two weeks, wasn't it?

"A. The reason she says that is on account of her people, but she really knew it before.

"Question by Mr. Parker: I want to ask you again, do you want to tell me where you got the money from?

"A. I can explain it, but I would rather not.

"Q. What objection have you?

"A. I would rather not tell you now."

No cross-examination.

ELLIS PARKER, affirmed.

By the Prosecutor:

Q. Mr. Parker, on October 16th were you in your official capacity notified of anything unusual happening at Irick's Causeway?

A. Yes, sir.

Q. What is your position in Burlington County?

A. County detective.

Q. How long have you been a county detective?

A. For nearly twenty-seven years.

Q. Did you receive a message on October 16th that took you to Irick's Causeway?

A. I did.

Q. About what time did you receive the message?

A. About the noon hour.

Q. What did you do after receiving that message?

A. I went to Irick's Causeway.

Q. What did you find?

A. I found a grave with a portion of a man's body sticking out of the dirt. I dug down with my hands and got hold of a rope, and with the assistance of others pulled out the body of David Paul.

Q. Is this the rope, which is marked Exhibit S12, the rope that was around the legs of David Paul that you have spoken of?

A. Yes, sir.

Q. What else did you find?

A. Well, I first made an examination of the body and I found—I removed his cuff buttons and ring, took a watch and chain from him, pencil and pocket knife.

Q. And are these articles in this handkerchief the articles which you took off of the person of David Paul's body?

A. They are.

Q. Did any of them have any distinguishing marks?

A. The ring and the cuff buttons had the initial "P."

Q. Where was the body removed to?

A. Later the body was removed to the morgue of Mr. Kline at Vincentown.

Q. I show you Exhibit S7, which is a slip headed "Broadway Trust Company." Have you seen that before?

A. Yes.

Q. Where?

A. This was wrapped around a lot of checks that was in a large envelope addressed to the Girard Trust Company in Philadelphia, and was in a coat pocket, and the coat was underneath two or three inches of dirt from where the body was buried, in the same grave.

Q. I show you Exhibit S4, a photograph. Will you tell us what locality that describes?

A. This describes the road leading from Tabernacle to Irick's Causeway.

Q. I show you Exhibit S5 and ask you what that photograph describes?

A. That describes the view looking from the road into the woods where the grave was.

Q. I show you Exhibit S6, which is a photograph and ask you what locality that describes?

A. That is a photograph of the grave.

The Prosecutor: If the Court please, I offer this handkerchief and its contents, and ask that it be marked Exhibit S34.

The Court: The handkerchief and contents will be received in evidence and marked S34.

Mr. Carrow: If your Honor please, the articles were identified by the witness, but I do not think the handkerchief was.

The Prosecutor: I will put them in an envelope, if you prefer to have it that way.

The Court: Is the handkerchief a handkerchief that was found upon the body of Mr. Paul?

The Witness: In his pocket.

The Court: It was found in the pocket of Mr. Paul, therefore, I think it is admissible.

(Handkerchief containing the articles specified, marked Exhibit S34.)

Q. On November 7th were you with the defendant, Raymond Schuck?

A. I was.

Q. Who else was in the party on Sunday morning, November 7th?

A. Well, in the—

Q. Just in the whole party, I mean.

A. In the whole party there was myself, Joe Fleetwood, Charley Morton, Raymond Schuck—

The Court: Mr. Parker, these gentlemen in the jury cannot hear you.

A. Myself, Joseph Fleetwood, Charley Morton, Raymond Schuck, and the driver of the automobile, Mr. Miller, was in the car that I was in. There was Mr. Wolverton, Mr. Doran, Mr. Painter and Mr. Schregler, and another chauffeur in another car.

Q. Before I take that up, I overlooked asking a question on that other matter, as to what did you notice in the vicinity of the grave on October 16th when you went there and found the body. I overlooked asking you that a moment ago.

A. Do you mean conditions?

Q. Yes.

A. When I first arrived there I saw where the underbrush had been broke down leading to the creek to the south of the bridge. It had been broken down in two places, once where something had been taken in and another place where it had been taken out, and then there were marks indicating something had been dragged on the right-hand rut, going from the bridge in the direction of where the body was found, up opposite the body, up opposite the grave.

Q. Did you notice the soil in that vicinity disturbed at any point or points?

A. Well, in where the—in the woods near the edge of the stream, someone had attempted to dig a hole with a shovel amongst the gum roots that was there.

Q. You say amongst the roots?

A. Yes, sir.

Q. Now, coming to November 7th, which I spoke to you about a moment ago, what were the circumstances under which you and the defendant and this party were together on that Sunday morning?

A. Want me to tell how I came to go?

Q. What was the reason of the party being together?

A. Mr. Raymond Schuck told me where he had buried the money that was taken from David Paul, and we went down to the Evergreen Cemetery at Camden to recover it or try to recover it.

Q. And the money was recovered there?

A. The money was recovered.

Q. In what way?

A. It was in two packages and buried in two separate places. Mr. Schuck and myself dug up the first package, containing around $20,000, and the second package I tried to locate it and Raymond tried to locate it, and finally Charley Morton located it, and Charley Morton dug that out.

Q. How was the first and larger package tied up?

A. Well, it was wrapped in newspaper and then had tire tape holding it together.

Q. And tire tape was holding the other package?

A. Yes.

Q. What did the other package have for a binding?

A. Well, it had some kind of a canvas concern. It was also finished up with tire tape.

Q. The packages which were presented here yesterday as Exhibits S17 and 18, you saw them, did you?

A. I saw them.

Q. Were they in the same relative shape that they were the morning they were dug out?

A. Yes, sir.

Q. Was the package that had the tire tape around it sealed when it was taken out of the ground, or opened?

A. It was sealed.

Q. And how was the larger package that was wrapped in newspaper tied?

A. That was all in a nice package.

Q. Now, when those packages were taken out of the grave, where were they taken?

A. They were taken down—you took them in your automobile and they were then taken to Mt. Holly.

Q. And they were opened by whom?

A. They was opened by Mr. Draper and you in the sheriff's office in Mt. Holly, and the money counted.

Q. Later in the morning—that was the very early morning, was it not?

A. Very early morning.

Q. How early?

A. Well, I think we left Mt. Holly around one o'clock and we was back around three.

Q. In the morning?

A. Yes.

Q. Did you and the party which you have described take another trip with the defendant on that same morning?

A. Yes, sir, we returned back to Camden County and went down in the neighborhood of Barrington.

Q. For what purpose?

A. For the purpose of recovering an automobile cushion that was torn up and thrown away and also for the purpose of recovering the bottom boards that were taken out of the car which belonged to Mr. James, and also to locate the bridge and the place where Frank James' clothes were thrown over in the creek; and also we went out in the neighborhood of

Forest Hill and Mr. Schuck designated certain places and told what happened there.

Q. I show you Exhibit S3, a photograph which has been described as the locality of Marlton Avenue and Baird Avenue bridge, Forest Hill Park, and ask you if you were at that locality on the morning of November 7th, with the defendant, Raymond Schuck?

A. I recognize that ground there, but I do not know the exact— Where is east and west?

Q. This is north in this direction; this is south, this is west and this is east.

A. I remember those roads, yes.

Q. Did you have any conversation with the defendant at that locality?

A. Mr. Schuck showed a place about there, I don't know the exact spot, where he said the last blows were struck.

Q. Did he say as to the effect, as far as Paul was concerned?

A. Well, I only heard him say that he didn't hear Paul make any noises after that time.

Q. And that locality was right near the Baird Avenue bridge?

A. Yes, not far.

Q. Did he indicate to you the place where it was in this locality here?

A. Well, nearly, as near as he could tell.

Q. And was that place between Marlton Avenue and Baird Avenue bridge, Camden?

A. It was.

Q. After that did you continue the journey to the pines?

A. We came on back and tried to locate the shovels and the rake, and also the instrument that was used in killing David Paul, but we were unsuccessful.

Q. Were they located that day?
A. The shovels and rake?
Q. Yes.
A. No, they were not.
Q. Did you continue on to the pines?
A. We did.
Q. What took place there?
A. Well, we went in the neighborhood of where the instrument was thrown out that was used, and searched for it, and we went on down to Irick's Causeway, but we were unable to find anything.
Q. Did Mr. Schuck on that occasion point out any particular spots?
A. Yes.
Q. What spots did he point out?
A. Well, he pointed between Marlton and Haddonfield on the back gravel road, and tried to show us as near as he could where the last shovel was thrown out; and then as we got on up into the woods, he tried to recall as near as he could where the others were thrown, but we were unable to find them. He tried to show us where he thought James had thrown the instrument that he struck Paul in the head with, but we could not find that, and we went on down to the bridge, and he pointed out the other place where the body was, and the glasses.
Q. Did he point out where the body had been buried or where it had previously laid before it was buried?
A. Both.
Q. And where was the point where the body had been previously laid?
A. Well, between twenty-five and thirty feet south of the bridge at Irick's Causeway.
Q. How close to where he said the body had laid was the spot where you said it gave evidence of

someone endeavoring to dig a hole, where the roots were?

A. I should judge six feet or more.

Cross-examination.

By Mr. Carrow:

Q. Mr. Parker, you say as a result of what the defendant told you, you and the defendant and these other gentlemen made a visit to the Evergreen Cemetery in Camden?

A. Yes, sir.

Q. And that the defendant pointed out the spots where the money was buried?

A. Yes, sir.

Q. That the defendant directed you down into the lower part of Camden County near where?

A. Near Barrington.

Q. Near Barrington—and for what purpose did you say?

A. For the purpose of recovering an automobile cushion that had been tore up and thrown away, and also the boards out of the bottom of the car.

Q. Was the automobile cushion recovered there?

A. Yes, sir.

Q. Were the floor boards recovered there?

A. Yes, sir.

Q. And where did you go from there?

A. Then we went out to this bridge here, over Cooper's Creek where he showed us where James threw his clothes overboard in the creek.

Q. Did you search for the clothes at that time?

A. I did not, no.

Q. Did anyone else at that time?

A. Mr. Painter did later—no.

Q. Were you present when Mr. Painter searched for the clothes?

A. No, sir.

Q. Then where did you go?

A. We then went on out to Forest Hill.

Q. And there you say the defendant showed you a spot that the last blows were struck, is that what he said?

A. Yes, he pointed out three places; he pointed out a place where James told him to stop the car, he said, the first place, and then he pointed out—

Q. Where was that spot?

A. It wasn't far from this place.

Q. Did you go on through that road to Marlton Pike?

A. We did.

Q. How did you enter—did you enter this Baird Avenue from the Marlton Pike or from Kaighns Avenue way around?

A. From Kaighns Avenue way.

Q. I see.

A. Well, we made some twists, Mr. Carrow; I am not very much acquainted with the roads, but we made two or three twists after we left Kaighns Avenue bridge, I don't really know how we struck it.

Q. Well, you say those photographs, this represents Marlton Pike?

A. Yes.

Q. And that is looking into the park from Marlton Pike—you see there is the High School?

A. Yes.

Q. Now, this spot—I don't think the Baird Avenue bridge you can see it on this picture.

The Prosecutor: It can be seen, Mr. Carrow, but it is rather indistinct. It is right where that light spot is.

Mr. Carrow: I cannot see it. Oh, yes. Now, the spot that he told you the machine stopped, was it near that bridge or nearer the Marlton Pike, or about half way?

A. Well, he pointed out three places, I think, where they stopped, altogether.

Q. Oh, did he take you to the actual spots or just point them out?

A. As near as he could.

Q. Just point them out?

A. Yes.

Q. You did not stop your machine at the point?

A. Oh, we stopped in the vicinity.

Q. Did you go then over to the Marlton Pike?

A. We did.

Q. Now, can you tell us then whether the first stop was nearer the Baird Avenue bridge or the Marlton Pike?

A. If I knew exactly which way we went in first I could tell you.

Q. You don't remember that?

A. No.

Q. How many times did he say that the car in which he and Mr. James and Mr. Paul were in on October 5th stopped in this vicinity?

A. If my recollection serves me right, three times, I know it was twice.

Q. I don't mean your car, I mean the car the defendant was in on October 5th?

A. I understand.

Q. You say you are sure he said it stopped twice?

A. Yes.

Q. Now, Mr. Parker, you say that handkerchief was recovered from the body of Mr. Paul?

A. It was in the coat pocket, yes.

Q. It was in what?
A. In the coat pocket.
Q. In the coat pocket?
A. Yes.
Q. Do you remember which pocket?
A. The opposite pocket from where the checks were. The checks were in one coat pocket and the handkerchief in the other, but I don't know which they were.
Q. In the side pocket?
A. Yes, sir.
Q. Now, how far is the spot where you were told by this defendant that the body was first put—how far is that spot from the bridge there at Irick's Causeway?
A. Well, I should imagine about a hundred yards up the road and then probably thirty or forty feet inside, in from the road.

Mr. Parker: I don't believe you understand what I mean. You say that picture truly represents that bridge there over the little run known as Irick's Crossway, doesn't it?

A. Causeway.
Q. Now, what I want to know is, how far up the stream was the body placed?
A. Between twenty-five and thirty feet south of the bridge.
Q. That would be—
A. On the right, looking from this picture.
Q. In this direction from the bridge? (Indicating.)
A. Yes.
Q. Now, where was that spot, as told you by the defendant, in relation to the stream itself?

A. The stream is a very crooked stream. There was a little raise in this marsh right next to the water where this body had been put in.

Q. Was the body put in the water?

A. According to Mr. Schuck.

Q. That is what I mean.

The Court: I want to get this; the question is, "The body was put in the water?" and the answer was, "According to Mr. Schuck."

A. Yes.

Q. He showed you the spot that the body was put in that water; now, was that spot visible from the bridge?

A. Not at that time, Mr. Carrow, the underbrush was very thick and the foliage was on, and the place, at this particular place there was a tree had fallen which was eight or ten inches in diameter.

The Court: Speak a little louder, Mr. Parker.

The Witness: A tree had fallen which was eight or ten inches in diameter, the butt end, of course, was elevated, and then as it went on into the water, it got down close to the water, and right at this particular place the tree was only an inch or so from the water where the body—

Q. How deep was that water?

A. Why, I stuck a stick down there and it was twenty-three inches deep.

Q. Twenty-three inches?

A. Yes.

Q. Now, does this other picture give a good idea of the place where the grave was dug as seen from the road?

A. At this time it does, Mr. Carrow, but at that time when I first went there you could not see that grave until you got to it.

Q. Were there any—have any trees been cut down since then?

A. The underbrush has been mashed down.

Q. I mean, any trees?

A. No trees to my knowledge.

Q. As a matter of fact, isn't that about the most exposed spot along that roadway at that particular point?

A. It is at this time, but it wasn't at that time.

Q. Well at that time, was it as obscure as that would be?

A. No, this is thicker; this is more swampy.

Q. And even at that time it was much more exposed than that?

A. Yes.

Q. Those high bushes and trees run all the way along the roadway up to the bridge, don't they?

A. And clean beyond the bridge up to within a very few feet of where this body was.

Q. So that, as a matter of fact, that is the most open spot along there, isn't it?

A. That is, after leaving the bridge.

Q. That is what I mean.

A. It is the only place where you could dig.

ANNA YOOS, recalled.

By the Prosecutor:

Q. Miss Yoos, you have already been sworn in this case, have you not?

A. Yes, sir.

Q. You are the stenographer for Mr. Parker?

A. Yes, sir.

Q. Did you take a statement of questions and answers between Mr. Parker and the defendant, Raymond Schuck, at the Mt. Holly county jail on November 6th, in the presence of his counsel, Russell Carrow, and Joseph B. Fleetwood?

A. Yes, sir.

Q. Was that conversation between such parties as took part in it reduced by you to stenographic notes?

A. Yes, sir.

Q. Have you those notes with you?

A. Yes, sir.

Q. Can you tell us that conversation that took place between the parties, by refreshing your memory from those notes?

A. Yes, sir.

Mr. Carrow: Now, Miss Yoos, pardon me. If your Honor please, I renew the same objection that I made as to the statement that Miss Yoos read a few minutes ago as to this statement which she is about to read now, on the ground that the corpus delicti has not been established, and the State cannot, by a statement of the defendant himself, establish that fact.

The Court: Do you wish to say anything, Mr. Wolverton?

The Prosecutor: I was merely wishing to say that I disagree with counsel for the defendant as to the effect of the authorities which he has stated in a general way, and, in the second place—

The Court: I think it will not be necessary to state any authorities, Mr. Wolverton. While I am

always pleased to hear from you on any subject, this a matter that we have pretty well thrashed out heretofore, and then, besides that, there has been introduced in evidence by the last witness a statement that fastens the death, or makes certain that the death of Mr. Paul probably occurred in Camden County, and I will overrule your motion Mr. Carrow, and grant you an exception.

(Exception noted for defendant.)

(Signed and sealed accordingly.)

FRANK S. KATZENBACH, JR.,
J. (Seal)

JOHN B. KATES,
J. (Seal)

Q. Now, will you proceed, Miss Yoos?

A. (Reading.) "Statement of Raymond Schuck, taken at the county jail, November 6, 1920, in the presence of his counsel, Russell Carrow and Joseph B. Fleetwood.

"By—Ellis Parker: Stenographer—Anna E. Yoos.

"Q. Now Raymond, you know who I am?

"A. Yes, sir.

"Q. You know Mr. Fleetwood and you know Mr. Carrow and this is Anna, you met her last night. Raymond, you have been ordered detained by the Grand Jury in the investigation of the murder of David S. Paul. There has not been any charge made against you as yet of this crime. David Paul was missing since the 5th of October and his body was discovered on the 16th of October, in this county. Previously he lived in Camden County and when his body was discovered, it was found he had been mur-

dered and buried in the edge of the New Jersey pines, having been hit in the head with some instrument and therefore, it is my duty as an officer to warn you that anything you say, might be used against you. You don't have to make a statement unless you want to. Any statement you make must be of your own free will and must be voluntary. Now, do you want to tell me in the presence of your counsel, just what you know about this case?

"A. I told the best part this afternoon.

"Q. Do you want to tell it again as near as you remember, what occurred?

"A. I want to tell the truth. The time I was to see you, I was going to tell you but I lost my nerve. (Meaning Mr. Carrow.)

"Q. That is, that remark was directed to Mr. Carrow?

"A. Yes, sir.,

"Q. Who was present?

"A. Yes sir. (Reading.)

"Q. Now, go ahead if you want to tell us and start from the 5th of October.

"Question by Mr. Carrow:

"Raymond, remember, anything you say, will be used against you in court.

"Question by Raymond Schuck:

"Will I have to give it in detail?

"Answer by Mr. Parker:

"Give it as near as you can. I mean concerning this man. I don't care about anything else that occurred between these times, only concerning David S. Paul and how he met his death.

"A. Well, when I was leaving the office on the 5th, I ran into Mr. Frank James.

"Q. Whereabouts?

"A. Third and Arch Streets, Camden, N. J., and I got in his car. I usually take my lunch hour between 1 and 2 o'clock. We were talking and I got in his car. When he saw this man Paul and he told me that there was a man I want to see to drive up. So I drove up and Mr. James got in the back of the car and Mr. Paul got in front with me. We were talking about women and buying some booze and Frank told me to drive him to the First National Bank. From the First National Bank he told me to drive to the ferry, so I drove him to the ferry around the back way where the automobiles run out.

"Q. What part of the machine did Paul get in then?

"A. In the same—the front. At that time, I understood Mr. Paul say, 'There goes a chicken of mine on the trolley car.' So that brought our conversation back again to women. So when I drove in the ferry, I stopped and they were talking about this woman and I pulled out a cigarette to light it and I heard a bang and I turned and this Frank had hit this man on the head with a hammer and pulled him in the back of the car and kept beating him and stating that he had double-crossed him and then both of them had an argument and I was pretty nervous and they had an argument about how he had double-crossed him and Frank continued to beat him.

"Q. Were the curtains on the back of the car?

"A. Yes, on the back.

"Q. Go ahead.

"A. Then Frank started to say he was sorry. He was bleeding and he told me to take him to the hospital, so I backed the car around and started for the hospital and when I got to Delaware Avenue, he told me not to go up Delaware Avenue, but to go up Mar-

ket Street and he had his gun out and told me to drive up Market Street to Delaware Avenue to Penn and from Tenth or Eleventh on Penn, either one, to Market Street and then out Market to Marlton Avenue. When we drove out about half a mile out Marlton to a road that leads to Forest Hill and I stopped and I pleaded with Frank not to go further and then he told me to go further that he was God dam desperate and needed money.

"Q. Was Paul conscious then?

"A. Yes. If I am not mistaken, then he said, 'Please let me out and take the money.' So Mr. James then ordered me to drive on. So we went over the bridge through Forest Hill to Kaighn Avenue and out Kaighn Avenue to Browning Road, then to Marlton Pike, then out Marlton Pike and then he started to beat him again. He was beating him all the time. I was so damn nervous. I didn't know what I was doing. Frank was then beating his head up. Going out Marlton Pike, I was so nervous, I could hardly drive the car, so Frank jumped in front and demanded me to let him drive the car and I wouldn't allow him.

"Q. Paul—was he then unconscious?

"A. I couldn't say. So we drove a pretty good distance down the pike and Frank takes the gun and pulls it around and I thought he was going to shoot me, but instead of shooting me, he shot directly at Paul.

"Q. In his face?

"A. He must have, but I couldn't say. I was driving.

"Q. How many times did he shoot?

"A. Twice.

"Q. Where was you about then? A mile out of Camden?

"A. Oh, further than that. We were between Browning Road and Ellisburg.

"Q. When he shot him twice?

"A. Yes.

"Q. Did you hear Paul after that?

"A. No.

"Q. Then you went on?

"A. Then we went on. That was the time when Frank told me I was to stick to him or he would pull me in it as far as he was. Then he ordered me to drive on that he had a place in the Jersey pines where he could put him.

"Q. Did he direct you where to go?

"A. He directed me where to go. I think we went through Ellisburg. Is Marlton before Medford?

"By Mr. Parker: Yes.

"By Mr. Schuck: We went through Marlton and he took me, or rather, he told me to take some back road back of Medford.

"Q. Where did you buy the shovels?

"A. They weren't bought that day. He told me to take a back road back of Medford. So after we got on that, I don't know what road we were on until we got to this particular place.

"Q. And then next what was done?

"A. I stopped the car and he started to pull this fellow out and I was sick to my stomach, so he told me I had to help him out and he said I had to. He handed me Paul's foot and I could not look at him, so I pulled him out, so after he was in there, we went back.

"Q. Where did you put him?

"A. Right where you showed me.

"Q. At the bridge where the water was?

"A. Yes.

"Q. And you carried him up and put him in the water?

"A. I don't know whether there was water there or not. I couldn't look at the man.

"Q. And do you know who threw the pair of glasses and the case in the creek?

"A. Yes, I threw them in there.

"Q. And then after the body had been placed in the creek, you went on up the road?

"A. To that cross-road I showed you today. It was the second road I turned around and came back.

"Q. Who tore up the paper and threw it out?

"A. I know that Frank went through his pockets and took some stuff out and I know he was tearing some stuff up.

"Q. And then you turned around and came back to Camden?

"A. No, we didn't.

"Q. What did you do?

"A. To tell the truth, Mr. Parker, I don't know how we went there, but we got to the bungalow.

"Q. After you turned around and started back, what was done by him or you, with anything that was used to kill?

"A. I was doing the driving and didn't do a thing.

"Q. What did James do?

"A. I know that he told me he threw the gun away.

"Q. Now, what else did he use to kill him with?

"A. That instrument—a part of a spring and a hammer.

"Q. Did you see him throw them away?

"A. Only the spring. That was when he hit the glass and threw it away and broke the windshield.

"Q. Then whereabouts, or did you dispose of the back cushion at that time?

"A. No.

"Q. Then you went on back to the bungalow at Clementon?

"A. Yes. On our way back, we got to talking this thing over and I kept saying to him I wouldn't be able to stand it and I would have to tell and he said, 'If I did, he would see that I got the same dose as he.' He said, 'For Christ's sake, you were with me when it happened, and God dam you, I will drag you in it,' and different remarks.

"By Mr. Carrow: Did he threaten you with the gun when you were driving up?

"A. At first, Russell.

"By Mr. Parker: When you got back to this bungalow, what, if anything, was done with the money?

"A. Well, he asked me where he could put the money and I said, 'I don't know,' and he said, 'How about the bungalow?' And I said he could do what he wanted and he then changed his mind and thought it wouldn't be safe to hide it there.

"Q. How long did you stay at the bungalow?

"A. I don't believe we were there 10 minutes.

"Q. And then where did you go?

"A. Right back to Camden.

"Q. To where?

"A. Oh, he said something about he would hide it at home and I recalled that my wife would be out and we would take it to my home.

"Q. Did you take it to your home?

"A. Yes. Put it in the cellar.

"Q. All of it?

"A. Yes. No, at the bungalow Mr. James took some and put it in his pocket.

"Q. How much?

"A. I don't know. And then again before we took it in the cellar, he put some more in his pocket.

"Q. How much of the money did you take out of it?

"A. He handed me some money and I don't know how much was there to tell you the truth.

"Q. Approximately.

"A. Two or three hundred dollars. He passed the remark that I had better put it in my pocket so that if it was necessary to beat it, we would have money and I said I would not beat it.

"Q. Was any of that thirteen hundred that you had on the sixth, with it?

"A. Yes, it was.

"Q. Did you have any blood on your clothes at all?

"A. Not a bit.

"Q. Where are your clothes?

"A. Third and Federal at a tailor's.

"Q. Did Mr. James have any blood on his clothes?

"A. Full of it.

"Q. What did he do with his clothes?

"A. Changed—Oh, I remember now, we left the bungalow and came over around Woodbury and stopped at North Woodbury Station and he used the telephone. I think he said he was going to call up Lippincott's and he stopped at Westville and bought a shirt and I believe he bought a collar too.

"Q. Do you know where at Westville?

"A. I don't know the street.

"Q. Would you know the place if you saw it?

"A. Yes, I would.

"Q. Now, what did he do—whereabouts did he change his clothes?

"A. At my home.

"Q. Whose clothes did he get?

"A. Oh, before he changed his clothes, he went to a tailor at Newton Avenue and Trenton and got a suit of his clothes.

"Q. That he had there?

"A. Yes. Then he took that suit and went to my home and changed his clothes there.

"Q. What did he do with the clothes that he took off?

"A. Rolled them up in a bundle and went in the yard and got a brick. Put the brick in the middle and drove down to Newton Avenue creek and threw them in the creek. Suit and all.

"Q. Do you know what he did with his shoes?

"A. No. He had no shoes to change. He must have had the same ones on.

"Q. That day, whose car was it you were driving?

"A. Frank James', or I thought it was James', but I found it was Mr. Lippincott's.

"Q. Now, after you had hid the money and he had changed his clothes and had drove down there, what next did you do that day?

"By Mr. Schuck: That night?

"By Mr. Parker: Yes.

"A. Went to Philadelphia.

"Q. That was on the 5th.

"A. Yes. The night of the 5th. I was not with her that night. Went to Philadelphia, but didn't see her.

"Q. When was the next time that you saw James?

"A. We stayed in Philadelphia all night. We both stayed in Philadelphia all night.

"Q. Where did you stay?

"A. I couldn't tell you that.

"Q. What part of the city?

"A. It was near 15th Street, north. He got a machine and drove to a saloon and the chauffeur and I had a drink and he (James) was in the back room with some women. We stood there until we got almost drunk and I got in the back room.

"By Mr. Carrow: Did he know the women?

"A. I think they were women he just met there. He went in and butted in.

"Q. Was that the place where you stayed all night?

"A. No. We left that place that night, but where we went, I don't know. I don't believe I would know the people if I bumped into them.

"Q. You got pretty full?

"A. Yes.

"Q. When was the next time you saw James?

"A. I was with him that day.

"Q. That next day—the 6th?

"A. Yes. I didn't get up until late and we went out and took a walk somewhere, but I don't remember where we were. My mind was blank all the time. I wanted to get away from him and I left him and went out to see this girl.

"Q. Well, you went to see her on the night of the 6th?

"A. Yes.

"Q. When was the next time you saw James?

"A. I went home after I left the girl and the next morning, it was around eleven or eleven-thirty, I met Frank.

"Q. Where?

"A. Fifteenth and Chestnut.

"Q. And did you have any talk with him?

"A. Yes. We were talking the whole thing over.

"Q. Was either of you watching the newspapers?

"A. I was watching them.

"Q. And how long were you with him that day?

"A. That is Thursday, the 7th. I guess I was with him until I met this girl. Until about an hour before I met her.

"Q. That day, did he say anything to you in regards to being discovered or what you should do or he should do?

"A. Well, I will tell you, Mr. Parker, on several occasions, I don't know when it was, he kept threatening me. I said we would get caught and I said, 'What is the use of going. You are going to get caught,' and he kept talking about beating it and I told him to go and beat it and I made up my mind that after he left, I would tell, but I was afraid of him.

"Q. Well, did you see him the next day, on the 8th, that you recall? That would be on a Friday.

"A. I did see him on Friday, but I don't know where it was.

"Q. It wasn't in Camden?

"A. No.

"Q. Well, on Saturday, do you recall seeing him?

"A. Yes, I saw him on Saturday.

"Q. Do you recall where that was?

"A. When I met him on Saturday, he had hired a Packard touring car. I recall that on Thursday, he took me to a place where there were two women and they seemed to have plenty of whiskey.

"Q. Do you recall where that was?

"A. I will think that up and let you know later, Mr. Parker. When I got in this place on Thursday and I saw this whiskey, I decided to get away from

him and told him I had an errand to do. I left about two o'clock, somewhere around two o'clock, and he had the telephone number of this West Philadelphia call and I kind of think he knew I was trying to keep away from him for the reason that he called on the telephone and this girl's brother-in-law called me at her sister's on Girard Avenue and told me that a man by the name of Frank James had called up and wants you to call him at once and when I left the place at that time, he gave me the telephone number.

"Q. Do you recall what it was?

"A. No, sir. So I called him up and he was under the influence of liquor and told me I would have to come to him at once or he would raise hell. We had an argument on the telephone and I hung up and went back to Girard Avenue. Suppose I should make an error in this, could I correct it, because I want it right?

"Answer by Mr. Parker: Yes.

"By Mr. Schuck: If I am not mistaken, late on Friday night, I met Frank with two girls and he, at that time, had the Packard. I think it was on the Friday night. When I met him, I was in a nervous condition and he insisted that I drink to brace me up. He drove out in the country looking for a roadhouse and what the name is I don't know, and when we got there it was closed and then he asked the chauffeur where we could go to put up for the night.

"Q. Did you know these girls?

"A. No, sir; I didn't know them. The chauffeur drove us to two places. I had better make sure of it. I think he made two stops and we couldn't get any, so finally he drove us to a hotel, to 15th and Chestnut, the Old Colonnade. We stayed there all night.

"Q. What did you register under?

"A. I couldn't tell you that. He told these girls we were two Chicago ball players.

"Q. Did you register yourself?

"A. Yes, I think I did.

"Q. Do you recall what name you registered under?

"A. No, I don't.

"Q. Do you recall the number of your room?

"A. Couldn't tell you that.

"Q. Do you recall what floor it was on?

"A. I think it was on the third floor back. No, I was on the second floor and he was on the third floor.

"Q. Did you register as man and wife?

"A. Yes, sir.

"Q. And what did it cost you for your room?

"A. I couldn't tell you that because I think Mr. James paid the bill.

"Q. Did you get breakfast there?

"A. No. While I was out buying a comb and brush, Frank and this girl were having their breakfast and all I had, was a cup of coffee. By the way, when I woke up, I was all by myself. The party I was with, got up, and dressed and went to work, I guess. Oh, yes, Frank told the chauffeur to come back the next morning.

"Q. This was when?

"A. On Saturday. When we left him Friday, he told him to come back on Saturday. When he came back, we took a ride, but I don't recall at the present time, what happened that morning or afternoon. If I am not mistaken, he took the girl home and then we took a ride and the chauffeur, he and I had dinner, I should judge somewhere around 3 o'clock at a road house in Pennsylvania. I am not acquainted with the roads and don't know where it is. I am not

sure whether I am right on that ride or not. I might want it corrected later. If you had told me, Mr. Parker, today, that you wanted this, I would have been thinking up today. I left Mr. James on a Saturday night to see this Philadelphia girl. I didn't see him any more until the following Wednesday morning. He came to my home after he learned that I was sick in bed.

"Q. Did he tell you how he knew you were sick?

"A. He said he had gone to the office and they told him I was home sick in bed and as he had an errand to do in the neighborhood, he thought he would stop in and see what the trouble was. I was just getting up and the knock came at the door and it was either my wife or sister-in-law, that let him in and he came right upstairs, stating that he had gone to the Prosecutor's office and that everything was all right. For me to hold my nerve and get myself together. And he had a Dodge roadster with him and told me, or asked me rather, to go with him as he was going to get his Ford and I could drive one of the cars after he got it, so we drove to Albinson's garage at Mt. Ephraim. I stopped and he went in and got his Ford and then he asked me if I wouldn't drive to Nicholson's garage and buy a cushion.

"Q. Where is that located?

"A. Kirkwood. Before I got there, he was leading with his car and he stopped at a cross-road and told me to get a cushion and come back and meet him at that place. When he told me to meet him at this cross-road, I went to Nicholson's garage and bought a cushion and paid, I think, $10.50 for a rear cushion for a Ford car. Then I returned to the cross-road. When I met Frank he told me he had been down at some stream and had had a lot of

trouble trying to wash the blood off his car and that if the authorities had taken his car, all bets would have been off with him. I omitted telling you, that Mr. James had torn the cardboard from the door of his car on the afternoon of October 5th and threw it in the bushes near where the body was. Then he said we would drive to a garage at Brooklawn. Mr. James put his car—wait a minute, I am leaving out some things that occurred. After Mr. James told me about the authorities, he continued taking sand and stuff to rub the blood off of his car. Then we drove away. We drove quite a distance on some roads until we came to a creek and the old cushion was torn up by Mr. James. Then we drove to Brooklawn.

"Q. Do you know what creek?

"A. I will find that creek for you tomorrow. At Brooklawn after he put the car away, he was talking to his wife and after the conversation he drove me home.

"Q. In what car?

"A. In the Dodge car.

"Q. This was on the 13th of October?

"A. Yes. Then on the 14th, on the morning of the 14th, I worked and told the stenographer about half-past one or two o'clock, I was going out for a walk. I walked as far as my sister's.

"Q. Where does she live?

"A. 718 Berkley Street. After talking to her and my step-mother for a while, I walked on home. Went in the back way and when I looked out front, Mr. James was there with his Ford car and he said he had been waiting for about an hour. He then told me I would have to go with him to bury the body of Mr. Paul as he had no one else he could rely on. I told him that I couldn't do it that it would make me

sick. Then he told me I had to do it, that he wouldn't be able to do it alone and that as I had gone that far, I would have to go the rest. Then we drove to Medford and bought two shovels and rake and from there to where we had placed Mr. Paul. Before we got to the place where Mr. Paul was, the rake was thrown out on the road. He said, 'I just bought this for a bluff.' Then when we reached the spot, I told Mr. James I could not go in and look at Mr.Paul and he told me to hold my nerve to come in and he would hand me his foot and to help him to pull, which I did until we got to the end of the road and I told him I couldn't go any further, so he said, 'Well, hell, I will get a rope and drag him there with the machine.' So I walked away and Mr. James tied the rope to Mr. Paul in the back of the Ford and drug his body near where he was buried. After he loosened the rope on the car, he tried to pull him and he couldn't and he called for me. I went back, looking in another direction from Mr. Paul's body, and helped him pull it to a little embankment. Then I got sick to my stomach and walked away again and Mr. James put him in the grave and covered him up. He then called to me and said he was all in. That his body was covered up. That I would not see him and for me to come back and help to shovel the dirt back on him, which I did. I think Mr. James told me later that in trying to lift Mr. Paul, the coat, shirt and all was torn from his body. Mr. James drove on up the hill and turned around and started back to Camden. We had gone probably a mile or more when he reached back and threw one of the shovels out in the woods. After we had left Medford, I threw the other shovel out. I don't know where we were. I threw it out and Mr. James stated that it was damn near time

that we got rid of the other shovel. I forgot to state that the bottom boards were torn out of the car, on the 13th, the time he threw the cushion away, I think I can find them for you tomorrow. Then he drove me to Collingswood and refused to take me to Camden, stating that I could make just as good time then on the trolley. He was through with me then. I could go on the trolley. I think it was on the 11th when I intended to take the money that I had hid in my house to the Broadway Trust and throw it in the door, but my nerve failed me, I took the money from the house to another place and buried it and it is there now as far as I know. I hope it is there. We had better go there first tomorrow. Mr. James told me where he had hid some of his and I think I can find that tomorrow.

"Q. When was the next time that you saw Mr. James?

"A. On Saturday afternoon, I should judge about two o'clock, on the 16th. He and his wife driving out Federal Street. I don't believe Mr. James saw me. Just passed in a car and I was walking. That was the last time.

"Q. Now, Mr. Schuck, is this story that you have told me the truth as near as you can recall?

"A. As near as I can recall, Mr. Parker, that is the absolute truth, but there are some things which might enter my mind and I might want them corrected. This statement that I have just made, completes the story from what I told you last night and this afternoon."

No cross-examination.

EDWARD I. BERRY, recalled.

By the Prosecutor:

Q. Mr. Berry, you have already been sworn in this case, have you not?

A. Yes, sir.

Q. And you have previously stated that you are court stenographer of the second judicial district?

A. Yes, sir.

Q. Mr. Berry, on the tenth day of November last did you take a statement of the defendant, Raymond Schuck, in answer to questions put to him by me as Prosecutor?

A. I did, sir.

Q. Were the remarks of myself and the defendant taken down stenographically by you?

A. Yes, sir.

Q. Have you a copy of those stenographic notes with you?

A. I have, sir.

Q. Do they correctly set forth all that was said between the defendant and myself on that occasion?

A. They do.

Q. Who was present?

A. Detective Painter, Prosecutor Wolverton, the defendant and myself.

Q. Will you inform us, testify as to what was said by the Prosecutor on that occasion and what was said by the defendant?

Mr. Carrow: Just a moment, Mr. Berry. If your Honor please, I want to enter the same objection to the offer of this testimony as was made by me to the offer of the previous statement just read, and the one before that.

The Court: Very well. The Court will make the same ruling and allow you the same exception, Mr. Carrow.

(Exception noted for defendant.)

(Signed and sealed accordingly.)

FRANK S. KATZENBACH, JR.,
J. (Seal)

JOHN B. KATES,
J. (Seal)

A. The Prosecutor said to the defendant: "Now, Mr. Schuck, as I have said before each time I have spoken to you that considering the fact that you and James are being held on a charge of murder in connection with the death of David S. Paul, which is a serious charge, you do not have to make any statement to me at all unless you wish to, and if you do answer any of my question or make any statement, I only want you to do so with the understanding that it is voluntary on your part, and that those statements or answers, as the case may be, can be used against you in court. Under those circumstances do you wish to answer any questions that might ask?

"A. Well, Mr. Wolverton, I don't think I would at the present time; I would like to have a chance to—

"Q. Well, you have previously answered the questions and seemed to have no hesitancy in doing so. You first made some statements to us which we since found were not true, that is the statements that you made in answer to questions by Mr. Doran and myself the night that you came to the Prosecutor's office, which was on—no, not at the Prosecutor's office—at my own private office, wasn't it?

"A. Yes, Third and Market.

"Q. That was the evening of October 23rd, and as I remember it now, it was Mr. Straw that asked you the questions that evening.

"A. Yes.

"Q. I was under the impression that you had talked with Mr. Doran and I on one occasion. Now, the statements that you made that night were relative to your movements from October 5th up until the time that we had you there, and on the same occasion we had your girl friend from Philadelphia, whose first name is Mary, and whose last name we all know, but I guess you don't want mentioned.

"A. No, I would rather not.

"Q. At that time, as I say, we also took her statement as to where you had been at different times. At that time you went in detail over your movements, but gave no information concerning James or any knowledge of James, or any knowledge concerning the death of David Paul. You told us that you had not seen James on October 5th, and that you didn't know Paul, and told us where you were. Subsequent to that you made other statements in which you told us that that was not true as to where you had been spending all the evenings that you spoke of, and mentioned the fact that on that Tuesday evening you were with James in Philadelphia, after having been with him with Paul in the car, and after relating what took place to Paul and the disposal of his body up here, how you went to Philadelphia, and then went on to describe where you were and where you were each succeeding night. We have investigated a good portion of that, and found some of it to be true and some of it we were not quite certain about, and it was in reference as to its

truth—it is in connection with those matters that I wanted to speak to you this afternoon and see if I could understand more clearly from you those circumstances which our subsequent investigation had not made as clear as some of the other statements which you made which were found to be true.

"A. You mean my first statement?

"Q. Yes, and in your second statement, and in the one you made on Sunday to us, there are some matters in connection with that that we have investigated that I want to speak further to you about and see whether you meant what you said or whether you were mistaken, or what reason there could be for any difference in the statements and what we know to be the facts. Of course, if you don't want to make any explanation of those points, why, you don't have to.

"A. Well, I will have to admit, Mr. Wolverton, in my first statement that I did lie; I will have to admit that.

"Q. Well, Raymond, why did you lie in your first statement—why didn't you tell us the truth?

"A. I was afraid to, Mr. Wolverton; I knew the position I was in and I was absolutely afraid.

"Q. Well, you remember the conversation that I had with you the night before you came here to the Grand Jury under subpoena, in the Prosecutor's office, that was Thursday night a week ago?

"A. When you told me to tell the truth.

"Q. And I also told you and explained to you that there was a statute in our State that made it compulsory on a person to reveal to a Supreme Court Justice or to a Judge of the County Court, or to the Prosecutor, or to some head official, the knowledge that he might have as to any crime that had been

committed, and you told me on that occasion that you knew nothing about Mr. Paul or his death or how it came about.

"A. The night before I came up here?

"Q. Yes, in my office.

"A. Well, Mr. Wolverton, I thought you just told me that I was subpoenaed to appear up here and that you— There were just a few words said, but I wanted to tell the truth.

"Q. Let me repeat just what our conversation was and see if you do not agree with me. It was along this line: I said, 'Mr. Schuck, you have been subpoenaed to go before the Grand Jury tomorrow at Mount Holly. I can imagine how you feel, because you and James have been very, very friendly,' and I said, 'But don't let that friendship between you two cause you to tell any untruths, because if you do you would be guilty of perjury and if you are innocent in this matter there would be no reason why you would take that load upon your back; friendship in a case of that kind does not call for you to commit perjury.' And I said, 'Furthermore, in addition to that,' I said, 'different from what most people think, there is a duty on the part of a person to reveal any information that they have concerning a crime.' I went on to say 'Most people think it is the duty of a detective to dig out and find testimony, whereas the duty is on the person who has any information to come and offer it, volunteer it, and that if you don't volunteer it, either to a Supreme Court Justice or Judge of the County Court, or to the Prosecutor, or to some police official,' and you went on to say that there was nothing that you knew, and then you said, except the statement that you had given previously was true with one excep-

tion, or with the exception of two or three things, and I asked you what they were, and you said,'Well,' and you stopped for quite a considerable time and thought, looking ahead of you, first at the wall, then at the ceiling, and said nothing. And then you went into your back pocket, I think it was, and took out a card case and took a card out of it and after looking at the card you said, 'What day was the 13th on?' And you looked around the office, and I did also and there was no calendar there, and then I said, 'Wednesday,' and you said, 'That is right.' You said, 'I told you I was not with Mr. James on Wednesday, and I was,' and I then said to you, 'Well, when did you remember that?' I think possibly I was a little bit sarcastic in the way in which I said it. I said, 'When did you remember that—who told you to remember it?' and you said you did not remember that when we asked you that before at my office, and I said, 'Have you been advised to say that by your attorneys, or has somebody advised you to say that, that you remember that?' and went on along that particular line, and it seemed to offend you a little bit, because when I said to you, 'Well, I knew you would be saying something like that because of a conversation I had with your attorneys, and now it has come,' and then I said, 'Well, what else have you remembered?' Then you said, 'I have nothing more to say.' I said, 'Well, all right, boy, if that is the position you want to take,' I said, 'you go ahead, but you are on the wrong track to take a stand like that.'

"A. I remember now. I wish you had questioned me more that night, Mr. Prosecutor. I had the same trouble, I couldn't get it out, I wanted to and couldn't get it out, and if you had questioned me a little more that night—

"Q. Now, that I have gone over that in detail doesn't that about tell what took place in the back room of the Prosecutor's office?

"A. Yes.

"Q. And when you said, 'I have nothing more to say,' you seemed to say it in such a final way that I thought you meant what you said, and I didn't endeavor any more to say anything except as you went out of the door, I said, 'Remember when you go before the Grand Jury tomorrow, don't commit perjury.'

"A. Yes, I remember that now.

"Q. You see, the statements that you have made and then afterward admitted were not true, and you have frankly told us some of those statements were not true, and then you have made other statements which our investigation throws some doubt upon. I am speaking now particularly of the last statement that you made here on Sunday. For instance, I was not sure whether you had told me that you met James on that day at Third and Arch, and you just told me a moment or so ago that you did meet him on that day.

"A. Yes.

"Q. At Third and Arch? Now, it is a question—

"A. This last statement I made, Mr. Wolverton, I have given you the absolute truth as near as I can think of.

"Q. Well, I think you have made a full statement concerning the time, but there are some features of it that I don't think you have been entirely full. For instance, just before Mr. Berry came here, when we were talking for a minute there about having talked to your girl in Philadelphia about this thing, both you and the girl Mary, the night we took your state-

ment at the office, said that you didn't know anything about it, and yet you did know at that time, because you were at her sister's house Thursday evening when you got a message from James over the phone.

"A. Well, didn't I say—

"Q. You have told me about that in your last statement, that is true, you have mentioned that in the other statement, but you didn't tell me in that statement that you told Mary anything about that telephone call, yet you did, and you told her who it was that wanted you, and when I asked you just a little while ago why you didn't say to Mary what you knew about this trouble, you said you could not bring yourself to it, and I asked you well, why did you tell her such cock and bull stories about money and what you had done with it and one thing and another, without acknowledging the truth to her, and you said you did not want to bring yourself to it.

"A. Well, I tell you, Mr. Wolverton, she saw I was upset and nervous from something, she couldn't help it; in fact, all her people did, and I told her part of it one night; I don't know what I did tell her.

"Q. Another thing, in that other statement that we took Sunday night, for instance, you didn't tell us anything about having bought her a coat for $480 over on Walnut Street.

"A. I thought I did tell that.

"Q. No.

"A. Well, I must have told somebody. Have you got the coat?

"Q. We have learned that since; in fact, we learned of it in a different way entirely.

"A. Well, Mr. Wolverton, I told somebody.

"Q. I think, what you have in mind is this, that the other evening, I guess it was Monday evening, when we were here, you talked to Mr. Schregler, and he asked you if you hadn't bought the girl a coat, and you told him that you had.

"A. And I didn't put that in my statement?

"Q. No, that wasn't in your other statement, and Mr. Schregler was under the impression you told him you had bought this girl a ring for $210?

"A. No, I didn't say that.

"Q. Now, you say, as you told me a few minutes ago you had bought a ring but it wasn't for her, and that you still have the ring?

"A. Yes, I have the ring hid at home.

"Q. And I also wanted to—

"A. Well, I don't know—

"Q. To talk to you, for instance, about what you had told her that you had done with the money. She said that you had told her that you had—that Frank had gotten this money from the Lippincott Motor Company or some motor company, that he had stolen it from.

"A. I don't know whether I told her a motor company or what it was.

"Q. I think you said a motor company.

"A. I had to say something, because they saw I was worried, and I was too darn afraid to tell them the truth, and I had to say something to them. Everybody where I went noticed it.

"Q. And you explained to her that the money you had you had won on a bet at the World Series, didn't you?

"A. That is right, that is what I told her.

"Q. She said that you said on Wednesday, when she saw you, that you had $1300 with you, and that

you sat down on the bed and counted it out, and there was $1300, and that you had told her that you had won $2000, and she wanted to know where the balance of it was, and you told her it was in the office.

"A. In the office, I think, yes.

"Q. And that you told her you had gotten a thousand dollars from your—

"A. From my father, I believe.

"Q. From your father as guardian of an estate that he had of yours?

"A. Yes.

"Q. And that you had bet the thousand dollars and had lost, that you then said to her, 'You can imagine how I felt after losing that thousand dollars and I went to him the next day and got another thousand, and I won that day and I have two thousand dollars.'

"A. That is right.

"Q. Now, you see none of that was in the other statement that we took from you on Sunday night; that is the reason I mention these things to you. You said the other statement covered everything, and as I told you, our subsequent investigation showed a lot of things that it did not cover.

"A. I didn't think you wanted all those details like that; I didn't think you wanted that.

"Q. Well, it is for those details that I came to talk to you at this time; that is the reason I mention those, just by way of illustration to you.

"A. Well, that is the truth.

"Q. I say, you made certain statements and our subsequent investigation had showed us that there is a whole lot we didn't get in the other statement, do you see? Now, she says that—that is, I am

speaking of Mary—that she kept after you time and again, that she seemed to be worried about this money, especially on Tuesday after she read about your name being mentioned in connection with it, that she kept inquiring whether any of the money that you had had come from James or the Paul case, and you kept assuring her no, that it was your own, and you told her you could see where you were going to be in trouble through James, that he had dragged you into it, because he would be able to say that the money that you had—that you had money, and also because your father would have some influence that might help you, and that he wanted you in it to help him out.

"A. I don't remember saying that.

"Q. You don't, eh?

"A. No.

"Q. Or nothing like that?

"A. I don't remember saying it.

"Q. Well, this coat that you bought for her on Walnut Street on Thursday, October 7th, with the $480, that was part of this—

"A. That was part of that money, yes.

"Q. Of the Paul money, wasn't it?

"A. You see, I called up Mr. Voigt not so long ago, I knew being dragged into this, that the more money I spent, I knew the worse it was going to make it for me, and there is some money coming to me from my grandmother's estate, and I thought it was about time I should get it, so I called Mr. Voigt—you can ask Mr. Voigt about it—to find out if that money was not due me. I fully intended to take that money and put it back and try to replace all the money I spent. And Mr. Voigt told me, I think he said he was waiting for the court papers from Trenton, or something to that effect.

"Q. Did you tell Mary to destroy the receipt for the coat?

"A. No, she told me herself that she had destroyed it.

"Q. Did you tell her not to say where she got the coat, and did you say to her folks that it was very unfortunate that you had bought the coat at the time that you did?

"A. Yes, I believe I did; I don't know whether I told her folks or not, but I think I told her.

"Q. Well, why—what made you think it was very unfortunate for you to have bought it at that time?

"A. Because I had promised to buy her a coat anyway long before this trouble.

"Q. What made you say to her it was unfortunate you bought it at that time?

"A. Well, no particular reason that I can think of.

"Q. Did you send your brother to her at any time to ask her to write out what days you were there with her?

"A. Yes, I did.

"Q. What was your idea in doing that?

"A. I wanted to get the correct dates of when I was with her.

"Q. Was that after James had been arrested?

"A. I don't know, Mr. Wolverton, whether it was or not; it was when I was sick in bed that I sent him there. I knew I would tell sooner or later, and I wanted to get the dates, the right dates, so I could have this thing straightened out in some way.

"Q. Well, you had the right dates the night you came to my office in Camden, why didn't you tell us then?

"A. Tell the story then?

"Q. That was October 23rd?

"A. I was afraid.

"Q. Why, James was in jail?

"A. Absolutely afraid; I knew for my own protection—I didn't know what the dickens to do.

"Q. Well, you didn't talk to anybody about it?

"A. I couldn't get started, that is just as I said before, up here with Mr. Parker, even when I told him a part of it I couldn't hardly get the rest of it out, I was so afraid. I talked to him and I wanted to tell him, yet I was afraid to; I knew what position I was in.

"Q. Raymond, how did you come to meet him that day, Tuesday?

"A. Just by accident; I have often met him out on the corner.

"Q. Did you go to lunch together?

"A. I couldn't even tell you whether I went to lunch that day; I don't know, I don't think we did. No, I know we didn't.

"Q. Had you been to lunch together the day before?

"A. I don't know whether I had lunch with him the day before or not.

"Q. Didn't you have any arrangement to meet him that day at all?

"A. Positively, no.

"Q. None whatever, eh?

"A. None whatever, no.

"Q. You are sure of that?

"A. Positive.

"Q. Did you have any engagement with anybody that day?

"A. No.

"Q. Well, what excuse did you give either at the office or home for being away for a couple of days unexpectedly?

"A. Well, you see, I had a couple of days vacation coming to me anyway.

"Q. Well, didn't you have to report to anybody at the office when you were off.

"A. I believe I told Mr. McGinley that I was going to take a couple of days' vacation.

"Q. When did you tell him that?

"A. I don't know when it was that I told him.

"Q. Well, was it the day before or the same day or the week before?

"A. To tell you the truth, Mr. Wolverton, I don't know when it was that I told him.

"Q. Well, when you went out of the office you went to go to the National State Bank, didn't you?

"A. I think probably I went to the bank early that day; some days I went to the bank early, around twelve o'clock.

"Q. Well, did you give any excuse for going away at the time you did?

"A. Probably that I was going to lunch that day, that is about all.

"Q. Well, then, didn't you explain to them when you came back where you had been, after being away for so long, when you only went out to get lunch?

"A. Oh, I think I told them I was at Brooklyn to see the World's Series, or something like that.

"Q. Well, why did you tell them that?

"A. I couldn't tell them the truth, I couldn't come out—

"Q. Didn't they think it funny that you just went out for lunch and then stayed away for about a week and then came back and said you had been to Brooklyn?

"A. I don't know what they thought about it.

"Q. I thought maybe you would know what the others thought about it by what they said to you when you told them you had been to Brooklyn. Did you make any excuse at all for going away, other than you were going out for lunch?

"A. I think I told them I was in Brooklyn, and I was sick, something like that.

"Q. No, I mean when you left the office—who did you see when you went out and said you were going to lunch?

"A. My stenographer.

"Q. Did you say anything more than that you were going to lunch?

"A. I don't remember, Mr. Wolverton.

"Q. Was James waiting for you outside?

"A. No, not unless he was looking for me, it wasn't by any arrangements.

"Q. What reason did you have for going to the ferry with him if you were going to lunch?

"A. Going to the ferry?

"Q. Yes.

"A. Well, when I met him he told me he wanted to go to the garage, that is where he met Mr. Paul, along Second Street.

"Q. Yes; well, what influenced you to go to the ferry instead of going to lunch?

"A. Why, he told me to drive Mr. Paul to the First National Bank, and then from there, after Mr. Paul got in, he said, 'Drive him down to the ferry.'

"Q. What reason did he have for you doing the driving instead of himself?

"A. Well, now, that I don't know, because I had very often driven his car before.

"Q. Didn't he give you any excuse?

"A. No, I didn't think anything of that.

"Q. Well, was he driving the car at the time you saw him or was he standing on the sidewalk?

"A. He was standing on the sidewalk.

"Q. Did he say whether he had been waiting for you or not?

"A. No, sir.

"Q. Did he give any reason for standing there?

"A. No, he did not.

"Q. Well, what did he say about you driving in place of him.

"A. Well, there wasn't anything said. At different times that I had met him—

"Q. Did he tell you to drive?

"A. No, I just simply jumped in like I had done many times, and got behind the wheel and went away, driving.

"Q. If you were going to lunch, what was your reason for going around to the garage with him?

"A. I didn't know what he wanted at the garage.

"Q. Did you tell him you were on your way to lunch?

"A. Sure, I told him I was going to lunch.

"Q. What did he say?

"A. He wanted to go to the garage.

"Q. Well, you were in the habit of going out to lunch at Third and Arch, weren't you?

"A. Third and Market, yes.

"Q. Staley's restaurant.

"A. Yes.

"Q. Going to Second Street took you away from your lunch?

"A. Yes, but I just thought he probably wanted to see somebody there or leave a message or something. It is only right around the corner; it wouldn't take a minute longer in an automobile.

"Q. Then after you got Paul in and you found he wanted to go to the ferry, why didn't you get out and go get your lunch instead of your going to the ferry?

"A. I thought probably we would go get lunch together. It wouldn't take long to drive to the ferry.

"Q. Did he tell you he had an engagement with Paul?

"A. No, on Second Street, he says, 'There is a man I want to see,' and I stopped, and he had curtains on the car and instead of unhooking the curtains he opened the door and climbed over the back seat. Mr. Paul got in alongside of me and then he introduced me to him.

"Q. Was that the first time you had ever met him?

"A. That is the first time I ever met Mr. Paul.

"Q. Then what was your intention in driving to the ferry, which took you still further away from where you were to get lunch?

"A. Well, it wouldn't take much longer to drive down to the ferry and right back to Staley's.

"Q. What reason did you have for going down back of the sheds instead of down the regular way?

"A. That is where the automobiles drive.

"Q. Well, they can go down that way, but the regular way is down through the ferry entrance; in other words, the sheds are used for parking privileges, aren't they?

"A. There was no special reason.

"Q. How near to the ferry did you get before anything happened to Paul?

"A. I don't know; there was quite a number of automobiles along there at the time.

"Q. Well, how near the ferry did you get?

"A. Well, I should judge probably half a square, maybe more, maybe less.

"Q. Well, what made you stop there instead of going direct into the ferry?

"A. You see, it is so narrow between the little wire fence they have, or some posts there and the shed, that I pulled in, like in between two cars, so I could back back and come back.

"Q. Did anyone tell you to stop there?

"A. No, sir; I just pulled right up in there.

"Q. Did Paul start to get out?

"A. I don't believe he did.

"Q. Well, if it was as far as you were going, why didn't he start to get out?

"A. They were talking about some woman, or buying some liquor or something, I don't know, it was over some woman they had met on parties they had been on.

"Q. Could you tell from the conversation whether Paul expected James to go to Philadelphia with him?

"A. No, I didn't pay much attention to the conversation, because it was some of their affairs I didn't know anything about, and I wasn't paying much attention to it.

"Q. Well, Paul hadn't made any effort then to get out of the seat when you stopped the car?

"A. I didn't notice; no, sir.

"Q. How long was the car stopped before something happened?

"A. Oh, they must have been talking there, I guess, two or three or four minutes, I don't know the exact time.

"Q. And what were you doing in the meantime?

"A. Just sitting there.

"Q. Well, did they stop their conversation?

"A. No, they were still talking.

"Q. Was Paul still talking when he was hit?

"A. I don't know whether he was now or not.

"Q. Was he making any effort to get out of the car when he was hit?

"A. I don't believe so; you see, I was lighting a cigarette when I first heard the blow.

"Q. Well, was it in the midst of a conversation or had they ceased?

"A. I can't remember, Mr. Wolverton, whether it was or not.

"Q. What did Paul say when he was hit?

"A. Why, Frank, he got all up in the air, started to cuss and said he had double-crossed him, and a whole lot of stuff like that.

"Q. Well, was Frank James standing up when he hit him or was he sitting down?

"A. I don't know whether he was standing up or not.

"Q. Well, Paul was sitting down, wasn't he?

"A. In the front seat alongside of me.

"Q. Was his back to James or was his face toward him?

"A. I don't know at the time he was hit.

"Q. Well, he was right alongside of you?

"A. Yes, but I was about to light a cigarette or lighting a cigarette.

"Q. Do you mean to say that you didn't see how he hit him?

"A. No, sir; all I heard was a thump.

"Q. How could you tell then that he hit him with a hammer as you stated to me the other day?

"A. Only what Mr. James told me afterward, that he had hit him with a hammer.

"Q. Where were you when he told you that?

"A. Somewhere along the road.

"Q. Well, what happened after James hit him the first blow?

"A. Well, I explained all that in the other statement.

"Q. Well, what I wasn't quite sure about is, you spoke about James pulling him into the back seat, and you said that you lifted his leg over into the back. What I was trying to get at is, how did it happen that if James struck Paul this blow that he wanted to get him into the back seat, and how did it happen, if you wanted to help him ——

"A. Why, you see, his foot seemed to be caught alongside of me. I didn't do no lifting in the back; it was just his foot was caught there. After he hit him he grabbed hold of him and pulled him back there.

"Q. Well, what reason did you have for trying to ——

"A. On account of it being near me, I don't know, no special reason at all.

"Q. Did James have hold of him with both hands at the time?

"A. I don't remember, Mr. Wolverton.

(At this point Prosecutor Kelsey came in.)

"Q. Well, what was he saying at the time he started to drag him into the back seat?

"A. Just as I said before, about him being double-crossed. It was over some woman or something, I don't know what the dickens it was about.

"Q. What reason did you have for helping him into the back?

"A. Well, for no special reason at all, only his foot was right near me and it seemed to be caught.

"Q. James was not making any threats toward you then, was he? Had James made any threats previous to that to you?

"A. No, sir.

"Q. Where was the first threat made that you say that James made?

"A. It was going out Penn Street that he made the first threat.

"Q. Out where?

"A. Out Penn Street, I believe it was out Penn Street.

"Q. Whereabouts on Penn?

"A. I don't know just about where it was.

"Q. In the meantime he had struck him several times, hadn't he?

"A. You see, after he got him back there, I turned around and looked and I saw him bleeding, and he asked me to drive him to the hospital, and that was when I turned around and started back, and then they started to talk about how they were going to fix it up.

"Q. Had he started to bleed before you left the ferry?

"A. Yes, I did notice a little blood; I forget now whether it was coming out of his nose or where it was.

"Q. Had he been hit with this instrument at that time?

"A. Oh, yes, sure.

"Q. How soon after he was dragged into the back seat was he hit with instrument?

"A. When I told you, when I first heard the thump.

"Q. Well then, when did he first use that spring to your knowledge?

"A. I don't know where it was when he first used that.

"Q. Did Paul seem to lose consciousness at the ferry?

"A. No, they were talking about how they were going to fix it up at the hospital with the bank or somebody.

"Q. Was the car standing or going at the time?

"A. It was going then, heading for the hospital.

"Q. Well, did you turn the car around, or did James tell you to?

"A. No, after he told be to go to the hospital I turned the car around.

"Q. He told you to go to the hospital?

"A. Why, Mr. James said, 'Take him to the hospital.'

"Q. Well, the way to the hospital, the most direct course from where you were would have been right straight out Market Street?

"A. Would have been out Market Street, yes, but they were talking about how they were going to fix it up. Frank says, 'Go up Delaware Avenue.'

"Q. Well, why would you go up Delaware Avenue to go to the Cooper Hospital?

"A. I just simply thought they wanted time to talk it over and fix it up, how they were going to make arrangements.

"Q. Was he down in the bottom of the car then, Paul?

"A. I don't know whether he was or not; you see, I was driving.

"Q. Well, you ought to know whether he was in the bottom of the car or whether he was sitting up on the seat?

"A. I couldn't very well turn around, turn my head.

"Q. The last place you had seen him, where was he?

"A. I think he was at the bottom.

"Q. What was done with the package of money after he was dragged into the back seat?

"A. I think the package of money was, Frank had told me when we stopped on Baird Avenue to throw the money back there; he said, 'Throw that bundle back here.' That was when he pointed the gun at me again and told me to drive ahead, that that package was full of money.

"Q. Now, he hadn't pointed any gun at you until you got to Baird Avenue?

"A. That was the second time.

"Q. Where was the first time?

"A. Along Penn Street.

"Q. You had a gun yourself, didn't you?

"A. No, sir; I did not.

"Q. Didn't you have a pearl handled gun?

"A. I don't believe I had it with me that day.

"Q. How did you get it with you the next day, on Wednesday, then?

"A. Well, if I had it with me the first day or the second day, I must have had it with me the first then.

"Q. Well, you know whether you did or not?

"A. Well, I carried it with me quite often, on account of carrying the company's money.

"Q. You have it with you all the time, don't you?

"A. Very near all the time.

"Q. Did you have a company gun with you?

"A. No, that was my own gun.

"Q. Didn't you have a larger gun that belonged to the company, that they gave you permission to carry?

"A. No, sir; that was my own gun.

"Q. Well, what calibre, was it?

"A. I think it was a .38.

"Q. Well, wasn't that gun the one that the company had loaned you?

"A. No, that was my own; they had never loaned me a gun or bought me a gun.

"Q. And you also had a little pearl handled gun, didn't you?

"A. That was the one I was carrying. I usually carried that one instead of the big one.

"Q. Well, that is .22 calibre, isn't it?

"A. That was a .22, pearl handled.

"Q. You usually carried that in your vest, didn't you?

"A. In my vest pocket.

"Q. And where did you carry the big gun?

"A. Well, if I had the little one I didn't carry the big one.

"Q. Well, where is it then?

"A. I had the big gun one night when I met Mr. James in Philadelphia.

"Q. Before this happened?

"A. No, it was after it happened.

"Q. What were you doing with it then?

"A. Well, someone stole the little gun.

"Q. You mean the pearl handled .22 calibre?

"A. The pearl handled gun, then I carried the larger one.

"Q. Where was that stolen?

"A. I believe it was stolen in the office, somebody picking it up there.

"Q. You mean in the Eastern Telephone Company's office?

"A. Yes, sure.

"Q. Well, when, subsequent to this murder?

"A. No, it was after; I don't just know what date.

"Q. When were you at the office that the gun could have been stolen after this affair?

"A. That must have been the following week, on Monday, the 11th, I believe; I think that is when it was.

"Q. Now, when you stop to think it over, did you have the gun with you that day or not?

"A. The little gun?

"Q. Yes.

"A. I may have had it with me, Mr. Wolverton; I am not positive about that.

"Q. Well, Mary says you had it on Wednesday when you were over there?

"A. Had the little one?

"Q. Yes.

"A. Well, probably I did.

"Q. Well, you always carried it, didn't you, as a matter of fact?

"A. Not all the time, no.

"Q. Well, where would it be if you didn't carry it?

"A. Sometimes I would leave it in the office, other times I would have it with me.

"Q. Do you remember getting this at any time after this crime?

"A. The little one?

"Q. Yes.

"A. No, I do not.

"Q. Wouldn't that indicate to you that you did have it?

"A. I must have had it with me that day."

The Court: We will take a recess at this time. But before the Court recesses, however, I will ask that the jury be taken out and then the defendant.

(Recess taken until 1.30 P. M.)

(Trial of the cause resumed at 1.30 o'clock P. M., pursuant to adjournment, in the presence of the defendant and counsel for the respective parties.)

EDWARD I. BERRY, resumed.

By the Prosecutor:

Q. Proceed, Mr. Berry.

A. (Reading.)

"Q. Didn't you have a gun on the seat alongside of you?

"A. No, no, sir.

"Q. Wasn't the gun right down between the two seats, another gun?

"A. No.

"Q. You told me the other day that there was a gun on the seat?

"A. No.

"Q. Was it the front or back seat?

"A. You will have to pardon me, Mr. Wolverton, but I don't think I said that, because if there was a gun there there would have been a different story to tell.

"Q. I think you told me, if I remember correctly, that there was a gun on the seat?

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"A. No, sir.

"Q. Well then, did James have a gun in his hand?

"A. He had the gun when he threatened me; yes, sir.

"Q. Well, he didn't have any gun in his hand when he was beating this man?

"A. No, I don't think he did.

"Q. Did you see any gun at all that day?

"A. Only when Mr. James threatened me; that is the only time I saw a gun.

"Q. How could you see the gun when he threatened you, when I asked you whether this man was seated in the back seat or on the floor and you said you couldn't tell because you were driving, and yet you say you can remember that James pointed a gun at you; well, how could you do that or know that, I should say?

"A. It was my intention to go to the hospital; I suppose he thought I was going to the hospital when he started to rave, and I happened to glance around and he told me to obey his orders.

"Q. Where did he say to drive?

"A. Over to Market Street; when we got to Market Street he said, 'Go out Market.' When we got to Marlton Avenue, he said, 'Go out Marlton Avenue.' It was along Marlton Avenue, just before we got to Baird Avenue, that Mr. Paul tried to scream, and it sounded very much to me as if Mr. James was trying to choke him.

"Q. If he was trying to choke him he could not be pointing a gun at you then; why didn't you leave the car and get away?

"A. By the time I got out there, I believe that every muscle of my body was shaking. I was dumbfounded, didn't know what I was doing.

"Q. You seemed to know enough to do what he told you to do?

"A. I think anyone in my position at that time would have done the same thing. I thought the man was crazy.

"Q. Was it your idea that it was best to continue with a crazy man or get away from him?

"A. Suppose I had tried to run and he grabbed his gun and shot me?

"Q. But you could have got away before he could have done that if he was busy choking the other man, and if you had started to run away it would have stopped him from choking the other man, the man could have hollered, couldn't he, which he was trying to do?

"A. Well, in a case like that, I never gave that a thought.

"Q. Why didn't you use the gun that you had?

"A. I didn't even give that a thought.

"Q. Then you went on Marlton Avenue as far as Baird Avenue?

"A. Baird Avenue, yes, and then just as I got in Baird Avenue, I pleaded with Frank, 'For God's sake, please stop,' I couldn't go any further, and he pointed the gun at me again and said, 'You have got to go; I am God-damned desperate for money; you have got to stick with me,' he said 'go on, drive on.'

"Q. Was that when Paul asked to let him go and take the money?

"A. That was the time; that was when I was pleading with Frank to stop.

"Q. Was the car stopped or moving?

"A. It was stopped; I had stopped the car then.

"Q. What was James doing?

"A. I don't know whether he was beating the man there, or whether he was—I don't know what the dickens he was doing.

"Q. But the car was stopped and the man was begging to be let off; you were in the car and you certainly must know whether he was hitting him or not?

"A. I can't remember it, Mr. Wolverton, because my nerves were in too bad condition at the time.

"Q. Well, where did he lose consciousness then, and how?

"A. It was along that road, if I am not mistaken. I believe the other night I told you that I didn't hear Mr. James say about Mr. Paul trying to shoot him?

"Q. Yes.

"A. It was somewhere along there I do remember Mr. James saying that 'he tried to shoot me.' With all that excitement of both of them fighting and Frank threatening me, darned if my nerves weren't in such a bad condition I didn't know what I was doing myself.

"Q. If the car was stopped and they were fighting, and he was begging to be let go, you could hear him begging, you certainly could hear what James was saying and what he was doing?

"A. No, I don't remember positively; to tell you the truth, I don't remember.

"Q. Well, what stopped him from talking?

"A. I know Mr. James talked to me after that, and I couldn't even remember what he said, too.

"Q. What stopped James from talking?

"A. What stopped James from talking?

"Q. I mean, Paul?

"A. Why, I suppose from the beating that Mr. James had given him.

"Q. That he had given him or was giving him?

"A. Well, he had beat him along there, too.

"Q. Did he beat him any more after that?

"A. I think after we got off—I don't believe I heard Mr. Paul say any more after we got off Baird Avenue.

"Q. Was he beating him there while the car was stopped?

"A. I think he was beating him at that time.

"Q. Well, while he was busy beating him, why didn't you run away?

"A. On account of Mr. James having a gun.

"Q. Well, how would that interfere? He couldn't use the gun and beat the man at the same time?

"A. Well, if Mr. Paul was almost senseless and helpless, it would have been very easy for Mr. James to drop that instrument and grab that gun if I had done anything.

"Q. Where was the gun?

"A. If he had the gun right with him he surely must have had it right close, handy.

"Q. You didn't see any gun then, did you?

"A. No, I don't remember; just as I said before, I was too dumbfounded, too nervous about it.

"Q. Well then, if you didn't see any gun, what made you so fearful?

"A. (After a long pause.) Well, I was just afraid of him, that was all; I was absolutely afraid of him.

"Q. And you went on out the road; did you start the car?

"A. When he told me to drive on.

"Q. In going out there, you came through some of—one of the most used thoroughfares of Camden, which is Market Street; in going there you would have to pass points where there were police officers;

in fact, you passed the Third District Police Station at 27th and Federal?

"A. No, we didn't pass that; you see, Marlton Avenue is at 21st Street.

"Q. Then in passing over the bridge—I guess that is true if that is where you turned off, at Marlton Avenue?

"A. Marlton Avenue, yes.

"Q. But you passed over the bridge, and you passed by a fire house just before you got to the bridge, and in going through the bridge it is very narrow there, and there is hardly a time that you come through there but there are people walking back and forth, and in addition to that, even if there were no one, you could have stopped the car suddenly, couldn't you, and run into the fire station for protection?

"A. No, it was on account of my nerves, Mr. Wolverton; I couldn't do anything like that. It wasn't because I didn't want to, but it was on account of me being in such a nervous condition, I really didn't know what I was doing. I ran past automobiles, trolley cars, and for that matter, maybe I passed officers standing along there; if I did, I didn't see them, I was too excited.

"Q. Were you driving fast?

"A. Well, I don't know whether I was driving fast or not.

"Q. Certainly at some time during that trip you must have been held up at crossings to permit cars to pass, or had to have your car under control for men to pass?

"A. No, there wasn't a stop made.

"Q. I don't mean a dead stop, but you certainly at street crossings or on the street have had to have

regard for other cars that were passing? You don't mean to say that you made that whole trip without passing an automobile?

"A. That is what I just say; I may have passed them.

"Q. What did you say?

"A. Just as I said before, I may have passed automobiles and trolleys and people, but the condition of my nerves, I can't remember whether I did or not.

"Q. Well, after you started out Mariton Pike, how far had you gone before James got into the front seat with you?

"A. It was somewhere after we got off of Baird Avenue, I believe; I don't know just exactly where it was, and he still had the gun in his hand when he got in the front seat.

"Q. What had he done with the iron spring?

"A. I don't know; I suppose it was in the back of the car.

"Q. What, if any, comments did he make after he got into the front seat?

"A. He talked to me, Mr. Wolverton, going out the pike, and I don't know even what the man was talking about, I was so frightened, and just before he shot Mr. Paul, I thought sure he was going to shoot me; when he turned around I thought as sure as I am sitting here———

"Q. Was he in the front seat or back seat when he shot Mr. Paul?

"A. He was in the front seat.

"Q. And turned around?

"A. It was his sudden turn with that gun, I thought sure he was going to shoot me.

"Q. Did the gun go off the first time he clicked it?

"A. Now, I don't know whether it did or not.

"Q. And did he continue sitting with you in the front seat until you got to where the body was disposed of?

"A. Yes, he rode in the front seat all the way.

"Q. And did he ride with you all the way back?

"A. In the front seat?

"Q. Yes.

"A. Yes, sir.

"Q. Where were the back curtains taken off?

"A. I don't know, now, where they were taken off.

"Q. Where was the iron spring thrown away?

"A. It was where I tried to show you and the rest of the party on Sunday, somewhere along that road; I just don't know.

"Q. And where was the revolver thrown away?

"A. It was somewhere along the road that he threw that away. I tried to give the best I knew about where it could be found.

"Q. Now, Mr. Schuck, after he threw the revolver away, why would you be under any further fear of him then?

"A. He had Mr. Paul's revolver.

"Q. Where did he get that from?

"A. He must have taken it out of his clothes, the same time he went through his pockets.

"Q. Did you see him take it out?

"A. No, I did not.

"Q. Did you know he had it?

"A. I knew he had the other gun.

"Q. How did you know it?

"A. When he got in the car he had the other gun.

"Q. Why, what did he say about it?

"A. Something about he had Mr. Paul's gun, had taken it out of his pocket or something, the same time he took the wallet and stuff.

"Q. Where is that gun now?

"A. That was recovered, I believe you have the gun.

"Q. Well, is that the gun that you told us had been put in the water tank?

"A. Yes, sir.

"Q. Over on 13th Street?

"A. 13th Street.

"Q. Between Market and Chestnut?

"A. That is right.

"Q. At the restaurant?

"A. That is the place.

"Q. Well, you went direct then to Clementon, didn't you?

"A. Right over to Clementon, yes.

"Q. And from there you went to Westville and purchased——

"A. To Woodbury.

"Q. To Woodbury?

"A. Mr. James used the telephone, and from there

"Q. Do you know who he telephoned to?

"A. No, I do not.

"Q. Didn't he give any reason for telephoning?

"A. Why, he told he, but I forget where it was now that he called. If I am not mistaken, I believe he called the Lippincott Motor Company.

"Q. Do you know for what reason?

"A. No, I do not.

"Q. Why didn't you run away at the time he used the telephone?

"A. Well, it was at that time driving back that he told me if I squealed he would draw me in this damn mess as bad as he was in it.

"Q. There you had an excellent opportunity of getting away and telling immediately to an officer what had taken place, and pointing him out and having him arrested; why didn't you do it?

"A. Well, he had frightened me so, I realized what a bad position I was in.

"Q. Then you were no longer fearful of him personally but you were afraid because you had been in it at the time?

"A. Yes, that is what made me afraid.

"Q. Then his threats toward you did not amount to anything then, did they, that is personal threats?

"A. About he woud draw me in the mess?

"Q. No, threats of having a gun or fearful of your life; just at that point that had ceased and the thing you were then fearful of was him drawing you into it?

"A. Him drawing me into it, yes, that is what I was afraid of. I started to realize then what an awful thing I had been drawn into.

"Q. How could he draw you into it if at the first opportunity you left him and told someone in authority?

"A. Well, I don't know, Mr. Wolverton, why I didn't do it; I wanted to tell all along. I was afraid of him threatening me that way.

"Q. Then you went on to Westville where a shirt was purchased?

"A. And a collar, I believe.

"Q. Who purchased it, you?

"A. Mr. James.

"Q. Now, did you buy him a suit of clothes at any place?

"A. No.

"Q. Or get a suit for him?

"A. He had a suit in the tailor's, I believe, that is Trenton Avenue and Newton.

"Q. Didn't you get another suit for him at another place?

"A. No.

"Q. Well, this suit you got that same evening was to take the place of the one that had the blood on?

"A. That was the one, yes, he wanted to make a change.

"Q. And the bloody suit was taken off and rolled up and thrown into Cooper's Creek?

"A. That is right.

"Q. Who threw it, you or James?

"A. Mr. James.

"Q. Did it have tire tape on it to hold it together?

"A. I believe it did.

"Q. Where did he get the tire tape?

"A. Where he changed the suit.

"Q. Where was that?

"A. In my home.

"Q. And is that the same kind of tire tape that was used by you in rolling up the money to keep it intact?

"A. I am not positive about that, because I had two or three rolls of tape around the house; it might have been.

"Q. Where did you get the covering that you put around that package of money that had the tire tape on? The covering looked as if—or maybe it was the larger package; I forget just this minute—but it was a sort of matting with a covering on the back; was that a part of the automobile door or the filling in the door?

"A. Oh, I know what you mean. No, that was a top of an old suit case, straw suit case or something, that was down cellar.

"Q. At your home?

"A. At my home, yes.

"Q. Now, was that where you first hid the money, in your cellar?

"A. No, he first put it in the dog box outside.

"Q. In your yard?

"A. In the yard, yes.

"Q. Now, what reason did you have for taking it to your house instead of to his?

"A. In passing by his house along Broadway, at Brooklawn Village, he said his wife was at home, and he asked me then if he could not leave it there.

"Q. Did you do any changing of the package there at that time?

"A. In what way, Mr. Wolverton?

"Q. That is, the changing of the money, and its arrangement as it was in the package?

"A. I don't think so.

"Q. Well, the money was all done up in packages of certain denominations, and in certain amounts, with a little wrapper that they have in the banks. Those wrappers were afterward taken off by you, as I understand it?

"A. Yes, that is right.

"Q. Was that done at your home that first night?

"A. No, that was done later. I was going to start and count the money to find out how much was there before I took it to the Broadway Trust Company, and the first two packages I think I counted there was a shortage. I believe they had on $500.00 on each of them, and it wasn't right, so I thought probably that Mr. James that night had pulled money out

of the others, and I was afraid to count them five hundred at a time, you know, as you would, so I took them all off and decided to count all the way through.

"Q. Was he present at the time that you started to count the money?

"A. No, he wasn't there.

"Q. Was anyone else present?

"A. No, sir.

"Q. Did anyone ever see the money?

"A. No, sir.

"Q. Well, how did it happen then that at a certain time during the case after James was arrested that you produced money for his attorney? In other words, didn't you get a request from James for $150.00 for his attorney?

"A. No, it was more than that, it was $200.00, and we sent him $150.00.

"Q. By whom did you send it?

"A. I think Mr. Walsh took it to him.

"Q. And was that part of this money?

"A. Yes, sir.

"Q. And where did you get it from?

"A. Well, it was some money that I had in my pocket from the first time Mr. James gave it to me.

"Q. Was that before you had buried the money in the cemetery or afterward?

"A. That was afterward.

"Q. Was that money for Walsh to represent you or to look after James?

"A. Mr. James.

"Q. Well, why did you put up the money to represent Mr. James?

"A. Well, I had no special reasons outside of it was his request, and I was still afraid of his threats.

"Q. Who brought the request to you? Is it a relative and you would rather not use their name?

"A. I would rather not, Mr. Wolverton.

"Q. I won't press it. What denominations were the notes that you sent?

"A. I believe it was a hundred dollar bill and two twenties and two fives.

"Q. And was the hundred dollars one of the notes that was taken from one of these packages?

"A. Yes.

"Q. Did you go and take it out of the package, or did you have it in your pocket?

"A. I had it in my pocket.

"Q. Did anyone see you give it to Mr. Walsh?

"A. You see, I went there with someone else, who then delivered it to Mr. Walsh.

"Q. Was it left at a saloon for him?

"A. No, sir.

"Q. You don't know whether the person to whom you gave it delivered it to him at a saloon or not, though, do you?

"A. No, I do not.

"Q. Who brought the message from James that he wanted money for his lawyer, or would you rather not answer?

"A. I would rather not.

"Q. When was that request made?

"A. The date, you mean?

"Q. Yes, how long after James had been locked up?

"A. I don't know the exact date, just when it was.

"Q. Well, was it very shortly after his arrest or was it just recently?

"A. I believe it was last week.

"Q. Did you ever talk to either of his attorneys about the case, or did they question you about it?

"A. I talked to Mr. Walsh, but then we didn't go into details about the case.

"Q. Did you make any explanation to him about it, the same as you are making now?

"A. I don't believe I did.

"Q. Why didn't you, Raymond?

"A. Tell him about the whole thing?

"Q. Yes.

"A. Just as I said before, I was afraid. I had been hesitating all along, for I knew Frank would certainly get me in Dutch. He threatened and threatened, and just worried me sick into bed, I went down and out in bed with a nervous breakdown for a week, over it.

"Q. Did he threaten you with a gun at any time other than in the car?

"A. No, not with a gun, only that he would draw me in the damn mess as bad as he was in it if I squealed on him.

"Q. Did he ever take a gun and say that that would be for any son-of-a-bitch that would squeal on him?

"A. No, but I will tell you the remark that he did pass in Philadelphia one time. Now, these may not be the correct words, but it was something like it—now that he had killed one man it wouldn't make any difference if he killed a couple more, they would never get him alive.

"Q. Where were you when he said that?

"A. It was some place in Philadelphia, I don't know just where it was.

"Q. Was it shortly after this crime?

"A. It was during that week.

"Q. Did anybody hear him say that?

"A. No.

"Q. Has anybody heard him make any threats about what he would do if anyone squealed on him?

"A. Only this party that I was speaking to you about a little while ago in the house, when he called me on the phone.

"Q. What party was that?

"A. One of these houses where he took me.

"Q. Did he in conversation with you at any time, in the presence of anyone else, say what he would do with that gun if anybody squealed on him?

"A. No, I wish he had.

"Q. Why do you say you wish he had?

"A. Well, it would help to verify my statement that he also meant me.

"Q. Did anyone ever say to you that he had made such a threat?

"A. No.

"Q. In other words, the only threats that were ever made were just between the two of you?

"A. Just between the two, yes.

"Q. And the only time that he ever used a gun or referred to a gun in his threats was the first day in the car?

"A. The first day.

"Q. After that his threats were about dragging you in if you squealed?

"A. That is right.

"Q. Did you ever tell anyone that he had made threats of that kind?

"A. Not unless I told Mary, I can't remember whether I told her or not.

"Q. Did you tell Mary that he had gotten you to bury the money?

"A. Yes.

"Q. But whose money did you say it was?

"A. Well, I didn't tell her at the time.

"Q. Well, didn't you tell her that it was the motor company's money that he had stolen?

"A. I believe I did, some motor company, I don't know whether I said the Lippincott Motor Company, or what motor company it was.

"Q. And did you tell her the night he called you on the phone, when you were at her sister's, which was Thursday evening, October 7th, that after you left her you went and found him where he was, and he had so much money that you had never seen that much before?

"A. I believe I did.

"Q. Did you tell her that he wanted you to bury it for him and you had it in a tin box and had gone in a taxicab and had buried it?

"A. Yes, I remember telling her that.

"Q. And did you tell her you had buried it in Philadelphia?

"A. I did at first, yes.

"Q. Did you ever tell her any differently?

"A. I think I lied to her and told her that he later got the money and buried it himself, some place.

"Q. Did she beg of you several times to tell her whether you were in this case or not?

"A. She asked me if I was telling the truth. She could see that I was nervous and upset, and she knew there was something wrong, and she was trying——

"Q. Were you doing any drinking during that week?

"A. Yes, I am sorry to say, Mr. Wolverton, I was.

"Q. Were you doing more than you had previously?

"A. Yes, a good bit more.

"Q. Had you been drinking the day these things occurred?

"A No, sir.

"Q. Did you, during the week following, use any drugs of any kind?

"A. Me use drugs?

"Q. Yes.

"A. No, sir, never used any drugs in my life.

"Q. Of no kind?

"A. Of no kind at all.

"Q. Did you use liquor very much before this happened?

"A. Well, only little parties that we would go out on occasionally.

"Q. Did James ever use drugs?

"A. I couldn't say, because I don't know.

"Q. Well, while you were in his company?

"A. No, none of my friends that I know of ever used any drugs.

"Q. Raymond, I remember that you said you buried the money October 11th, out in the Evergreen Cemetery?

"A. Yes.

"Q. Why did you bury it in two bundles?

"A. Well, there was no special reason that I know of for the two bundles.

"Q. Did you count it before you buried it?

"A. No, I undertook to count it, but I had gone so far, the numbers were so high, I forgot it the first time, and I would start back and count it all over again, and I would get lost again, and finally I got disgusted.

"Q. Do you know how much you gave him of the money?

"A. No, I do not.

"Q. How many different times did you give it to him?

"A. I think it was only the once when I took it to him in Philadelphia.

"Q. Had it been obtained from the package in your home that evening or that day?

"A. It was one of those bundles, yes; it was before the wrappers was taken off, and I don't know how much it was.

"Q. Did he ask you to bring it to him?

"A. Yes, sir.

"Q. Were you and James going under your right names while you were knocking around in Philadelphia?

"A. He called me Ray and I called him Frank; there was no other, outside of the hotel, when we went to the hotel, I don't know what name I used at the hotel.

"Q. Didn't you pass yourself off as two Chicago ball players?

"A. Two ball players.

"Q. What name did you take?

"A. I don't know what name it was.

"Q. Didn't one of you at one time take the name of Jones, and didn't you take the name of Schaefer?

"A. Now, I don't remember that.

"Q. Did one of you take the name of Eddie Cicottee?

"A. I think I told one of the girls that night that I was Eddie Cicottee.

"Q. What reason did you have for taking those names?

"A. It first came to Frank's mind about the Chicago ball players; I don't know what brought it to

his mind, but this girl, the first one, the girl that was with him, he met her first and she wanted to know who we were and all about it, and it just simply came to his mind suddenly to say that we were Chicago ball players.

"Q. When you left the office that day on October 5th, did you leave with any intention of being away for any length of time?

"A. I don't believe so.

"Q. Didn't you tell anybody that you were going to go away?

"A. No, unless I told them I was going to Brooklyn to see the series, or something like that.

"Q. Did you tell them that?

"A. I don't know whether I told them that on Monday or Tuesday, but I remember telling someone in there that I was going to Brooklyn.

"Q. Well, you had no intention of going, had you?

"A. No, I did not.

"Q. If you had no intention of going, what would you tell anyone that you were going for, or did you tell anyone that you were going?

"A. No, I didn't tell anyone I was going.

"Q. What made it come in your mind that you might have told somebody that?

"A. On account of the Courier score board, and so much excitement around there. I suppose I was kidding, like I always did in the office, done a lot of kidding.

"Q. Then you had no intention, if you did make that remark, of going to Brooklyn?

"A. No, sir.

"Q. Did you give any excuse to anybody for going away, that they might not expect you back for a day of two?

"A. I don't believe I did.

"Q. Now, after you had been knocking around with James in Philadelphia until Sunday or so, following this crime—some of the time you were with him and some of the time you were not with him, weren't you?

"A. Yes.

"Q. Why did you keep going back to him?

"A. Well, it was just as I said before, about him threatening me like he did on the telephone that time.

"Q. What led you to hide the money——

"A. In the graveyard?

"Q. Yes.

"A. I wanted to get it out of my home and take it to the Broadway Trust Company, and after I rode down Broadway my nerve failed me to throw it in the door, and I didn't know what to do with it. I knew that I wouldn't take it home any more, so it came in my mind about the graveyard, and I don't know what ever put it in my mind to buy a flower, but I think by buying that flower it saved the money.

"Q. Wasn't the idea of buying the flower to give you an excuse for being in the graveyard in case you were caught there digging in the lot?

"A. Well, I don't know.

"Q. Well, what reason did you have for burying it there and telling Frank James that it was over in the New Camden Cemetery?

"A. Well, for fear that he might knock me in the head and take the money, that he would get stung, that he wouldn't find it.

"Q. Where was your mother buried?

"A. At the New Camden Cemetery.

"Q. And you told him it was at her grave, didn't you?

"A. Yes.

"Q. Well, didn't you have any reason other than the one that you have given for putting it in the Evergreen Cemetery?

"A. That was the only reason.

"Q. And what reason, if any, did you have, other than what you have given, for telling him it was in the New Camden?

"A. Well, for that reason, and another reason that I intended to try and get the money back to where it belonged.

"Q. Well, you didn't have to bury it in a graveyard if you wanted to get it back to where it belonged, did you?

"A. No.

"Q. Did you ever go out to see whether the plant or the money was still there after you put it there?

"A. Not until I went with you.

"Q. And during the week that you were down Jersey, who were you with?

"A. I was all alone.

"Q. Where did you go?

"A. Nelson Hickman's, at Newport.

"Q. I had overlooked this when I was speaking to you a moment ago: You took $2000.00 or $1300.00 of this money to Mary's house, didn't you, the Wednesday after this?

"A. I think it was $1300.00.

"Q. What made you say that you had won $2000. —had you originally had $2,000.00?

"A. No, I had not, I just simply said that for no special reason.

"Q. You didn't have $800.00 or $700.00 of it in the office?

"A. Oh, no, positively no.

"Q. Did you leave the $1300.00 with her over night?

"A. Yes, I did that night; then the next day the coat was bought. Then I believe, I think the next night it was, that would be Thursday night, wouldn't it?

"Q. Yes.

"A. The next night, I believe it was at her sister's on Girard Avenue.

"Q. That is, you left it there all night?

"A. All night, yes.

"Q. Did either of you count the amount of money you had with you on Tuesday night when you stayed with these two girls that you met in the saloon?

"A. Well, I didn't; I don't know whether Mr. James did or not.

"Q. Do you remember how much either of you gave those girls?

"A. I think in my condition that one of them got a hundred dollars out of me.

"Q. Do you know how much any of these other girls got out of you?

"A. By the way, does he have to put this down?

"Q. If you don't want it down.

"A. No.

"Q. Do you object to it being put down, what you have just said?

"A. Well, it doesn't make any difference.

"Q. Then just repeat it?

"A. Did James tell you that he had bought one of these girls a coat?

"Q. No.

"A. Well, I think he gave one of these girls a hundred dollars that night, and then the next day she called up a tailor or a department store, said she

had a coat there that was being repaired or something, I am not certain whether it was around $200 or not, but I know it was pretty big; I can't say.

"Q. Do you think he bought her the coat?

"A. I don't know, Mr. Wolverton, I can't say, yes or no, because I am not sure of it.

"Q. You mentioned him buying a ring on Girard Avenue?

"A. Yes.

"Q. Do you remember when he bought that and how much he gave for it?

"A. I believe it was $175.00; I don't know what day it was now.

"Q. Did he buy it for himself?

"A. Yes, for himself. Wait a minute; I believe that was on Friday; that would be October 8th, wouldn't it?

"Q. Yes.

"A. Or October 9th?

"Q. That would be October 8th.

"A. I believe that was the day he bought it.

"Q. Do you remember where the place was on Girard Avenue?

"A. I think it was between Fourth and Fifth on Girard Avenue; I would know the place if I saw it, but I don't know the number or name.

"Q. Do you know where any of the balance of this money is? We have recovered about $34,880. Now, can you tell me where the balance is?

"A. Mr. Wolverton, if I could tell you, I would do it willingly.

"Q. Of course, $480.00 of it was spent by you for the coat that you bought for Mary?

"A. Yes.

"Q. And then $210.00 of it was spent for the ring which you bought at Shaw's in Camden?

"A. Yes.

"Q. Then $150.00 of it you gave for James' attorney?

"A. Yes.

"Q. Did you give your wife any money?

"A. Only $60.00—pardon me.

"Q. Did you permit her to keep that or did you take it back?

"A. No, I believe I got that back.

"Q. For what reason did you take it back?

"A. I think I put that back before I buried it, back in the pile.

"Q. For what reason did you take it away from her after you had given it to her?

"A. When I put it back I was going to try and recover and place back all the money I had taken.

"Q. What excuse did you give her for wanting back the money after you had once given it to her?

"A. I don't know now what I had told her.

"Q. Did she object to giving it back?

"A. No.

"Q. Were did you tell her you had gotten the money when you gave it to her?

"A. I told her when I gave it to her that I might want it back again.

"Q. Did you tell her where you had gotten it?

"A. No.

"Q. When did you give her that?

"A. I don't remember what day it was.

"Q. Did you give her money at any other time in connection with this case?

"A. I can't remember giving her any money.

"Q. Do you remember having a conversation with her in which you asked her or told her that you wanted her to say where you were on October 5th,

6th and 7th, and did she say to you, 'How much is it worth?' and did you say, 'Oh, there is $10.00'?

"A. I was asked that before, but I don't remember.

"Q. You don't remember that?

"A. No, I don't remember that.

"Q. Any such conversation or anything like that?

"A. I don't believe that I did.

"Q. Did you buy any clothes for your wife out of this money, furs?

"A. No, I don't think so.

"Q. You don't remember giving her any of the money other than the $60.00 that you speak of which you say you took back?

"A. Well, I may have given her a little, but it wasn't any large amount.

"Q. Did you say anything to her about not putting the $60.00 in bank, not to put it in bank?

"A. I believe I did tell her not to put it in bank, that is the time I told her I might want it back again.

"Q. Does she have a bank account of her own?

"A. No, she has had an old bank account in the West Jersey Trust Company, I believe, at Third and Market, but I don't know—of course, you can investigate that and find out whether there is any money there, but that is where she did have it.

"Q. Has James at any time—— Just cross that out. Were you in bed when James came that Tuesday? That would be, I guess, October 12th.

"A. I think that was on Wednesday.

"Q. Was it on Wednesday, October 13th?

"A. The 13th. yes.

"Q. Were you in bed when he came?

"A. Yes, I was just getting up.

"Q. Was anybody in the room when you had your conversation?

"A. No, my wife was standing there talking to him a while then she went downstairs.

"Q. Did James make any threats at that time?

"A. No, it was at that time that he told me he had been up to the Prosecutor's office and everything was fixed up for me, to try and get my nerves together and hold myself together.

"Q. Was that in the presence of your wife?

"A. No.

"Q. Did he talk about this case in any way in the presence of your wife?

"A. No, I don't believe he did, he was talking to her downstairs, but I don't know what it was about.

"Q. Did he make any reference at all to the trouble he was in or what he would do to anyone that squealed on him?

"A. To her?

"Q. Yes, in your presence?

"A. No, sir.

"Q. Have you heard of him making any threats to anybody else other than yourself about what he would do to you or do to anybody else that would squeal on him?

"A. No, sir; I wish he had.

"Q. Well, when you went back to bury the body, did he make any threats on that day?

"A. Only that I had to go, that there was nobody else he could depend on, and that I had been mixed up in it and stuck with him so far, and I positively had to come and help him, that he couldn't do it alone. I told him that I couldn't do it, that I wouldn't be able to stand it. Then he asked me if I would go up there and help him dig the hole.

"Q. Did you suggest the burying of the body, or did he?

"A. Mr. James did.

"Q. How did you happen to be the one that would go and purchase the seat instead of James?

"A. Why, he told me to meet him at that cross-road, see, he had his car with him at the time.

"Q. Did you pay for the seat out of your money?

"A. Yes.

"Q. Why did you do that if the seat was for his car?

"A. I don't know why I did it.

"Q. Was that paid out of the money that you had gotten from Paul?

"A. I believe it was, yes.

"Q. What was your salary with the telephone company?

"A. $80.00 a month.

"Q. On the trip to bury the body or on the way back, did he make any threats at all?

"A. Only that I —well, different times I don't know whether he did it on that trip, he told me so often, that I had to keep my damned mouth shut.

"Q. Well, now, if you were fearful of him first because he had a gun and afterwards because you were in it, or he said he would drag you into it, why didn't you when Mr. Abrams talked to you and advised you to come to the Prosecutor and tell him whatever you knew in the matter, why didn't you do it then?

"A. That Mr. Abrams said that to me?

"Q. Yes.

"A. Mr. Abrams is lying.

"Q. Now, just wait a minute; didn't Mr. Abrams have a conversation with you last Wednesday or

Thursday—I think last Wednesday—in which he talked to you about the case and said that if you knew anything he would advise you to go and tell the Prosecutor?

"A. We were talking about it, but he didn't say anything like that.

"Q. Didn't he give you advice to go and tell it if you knew anything?

"A. No, sir, he didn't. If you knew that man like I did, you would know he was lying.

"Q. You didn't have any conversation of that kind with him?

"A. We held a conversation, he was talking about it, but he didn't advise me to do anything like that.

"Q. Well, why didn't you tell me when I asked you?

"A. Just as I said before, Mr. Wolverton, I knew that he was going to squeal on me and pull me in the thing if I squealed on him, and I didn't know what to do for the best.

"Q. Well, you knew I was the Prosecutor of the county, the official that must know these things, and I appealed to you to tell me whatever you knew, and you said you didn't know anything. Why didn't you at that time tell me?

"A. I was afraid.

"Q. Well, why didn't you tell——

"A. I thought probably with what money I had and would put up later, that I could get the balance of the money to the Broadway Trust Company and try to keep out of it in that way. I didn't want to be drawn in this, because I knew if I squealed and he was picked up, he would draw me into it as bad as he is, just like the others.

"Q. Then if you knew he would do that, why didn't you come and give that kind of information to a public official?

"A. Only that I was afraid.

"Q. Well, you finally gave the information?

"A. Well, I couldn't get it out of me, and even with Mr. Parker up here, after I told him part of it, I was even afraid to tell him the rest.

"Q. Why didn't you tell your father or some member of your family that you had confidence in, or your lawyer?

"A. I couldn't do that. I went to Mr. Carrow twice to tell him and I couldn't get started. I even sent for Mr. Carrow to come to my home when I was sick in bed with the intentions of telling him then, and I couldn't get started to tell him.

"Q. Had you been under any fear of James at any other time or for any other reason? In other words, were you mixed up in any other trouble together that made you fearful?

"A. Previous to this? No.

"Q. So that there was nothing prior to this that made you fearful of James or what he would do; it was merely what had taken place in connection with this case that made you——

"A. That is all, yes.

"Q. Had you been advised by anyone in connection with this case to tell the truth, other than by me?

"A. Yes, there was three or four people, I don't know who they were, different friends, if I knew anything to tell the truth. When they would tell me that I would kind of get a chill or something, right down in here, something of the kind gave way for fear.

"Q. Now, these answers that you have made to my questions tonight, and the statements that you have made, Mr. Schuck, are they true?

"A. Absolutely, Mr. Wolverton. Of course, if there is anything——

"Q. Is there anything you want to add to them or change them?

"A. No, I was just going to say, if there is anything that comes to my mind later about the money or anything, I would like to tell you.

"Q. Very well, if there is anything further you wish to say to me at any time, I wish you would so indicate to your counsel or to the sheriff or anyone else that you have confidence in; if there is anything you wish to say to me in connection with this, I will be very glad to hear from you.

"Q. I will do all I possibly can now that I have been started, and I feel better over it, to help you try to get the money back in some way. I will try to think of the money we spent, that I know of, and anything that will help in any way I will tell you. Did you question Mr. James about buying this coat and him buying the ring or what money he spent?

"Q. No, I didn't know about that until you told me of it.

"A. You haven't found out from Mr. James yet what money he spent or asked him about it?

"Q. I have talked to him the same as I have to you, and, as I said, we are about $5,000 short, that neither of you can seem to help us.

"A. Didn't he mention that?

"Q. Not that I remember; it may be that if I spoke to him again he will remember it, the same as you in your previous statement did not say anything about the fur coat or the $210.00 diamond ring.

"A. Well, I could have told you at that time; at that time you weren't trying to recover or wanting to know about the money; it was just about the murder of Mr. Paul.

"Q. Well, we were endeavoring at the same time to find out about the money. Of course, the money part of it is a small consideration compared with the seriousness of the crime, what was done to Mr. Paul, and we are in fact, more interested in getting at the bottom of that than we are in ascertaining where the money went; that is only incidental.

"A. Well, if anything comes to my mind about any of the money I will gladly tell you about it."

No cross-examination.

FRANK J. JAMES, sworn.

By the Prosecutor:

Q. Mr. James, you are one of the persons mentioned in the indictment with Raymond W. Schuck, are you not?

A. I am.

Q. And for which offense you have already been convicted?

A. Yes, sir.

Q. How long have you known Raymond W. Schuck?

A. Eight or ten years.

Q. How intimate has been your friendship?

A. Quite intimate.

The Court: Can you gentlemen hear?

The Prosecutor: Will you speak as loud as you can, please?

The Court: Speak a little louder, Mr. James.

The Witness: Yes.

Q. How long prior to October 5th last, had you known David S. Paul?
A. About twenty years.
Q. Was Raymond Schuck with you on October 5th last?
A. He was.
Q. Where did you meet him?
A. On Third Street below Federal.
Q. Was that meeting by previous arrangement?
A. It was.
Q. For what purpose?
A. To try to get the money from David Paul.
Q. Had you previously talked to Raymond Schuck about the money that David Paul carried?
A. We did.
Q. How long previous had you spoken to him about it?
A. A week or ten days.
Q. Did you during any time prior to October 5th, meet David Paul with Raymond Schuck?
A. We did.
Q. On what day?
A. Monday, October 4th.
Q. Under what circumstances and where did you meet Mr. Paul?
A. On Second Street.
Q. Were you walking or riding?
A. We were riding.
Q. When you say, "we" who do you mean?

A. Raymond Schuck and I.

Q. Had you at any time previous to that seen David Paul when Raymond Schuck was in your company?

A. On Friday, October 2nd or 1st, that would be.

Q. That is, the Friday before?

A. Before October 5th.

Q. When did you see him on that day and under what circumstances?

A. We saw him walking up along the sheds by the ferry with this package of money, and we were in back of the sheds.

Q. What sheds do you refer to?

A. At the ferries.

Q. You refer to these sheds which are shown in Exhibit S2?

A. Yes, in back here.

Q. You say in back of these sheds?

A. That is where we were along here (indicating on photograph).

Q. And where was your car?

A. In back of the sheds, with us.

Q. And at what point in the sheds were you when you saw Mr. Paul go by?

A. First?

Q. Yes.

A. At Delaware Avenue.

Q. Had you been any place with Raymond Schuck before you went to the sheds?

A. On Friday?

Q. Yes.

A. Down by the trust company.

Q. Do you mean the Broadway Trust Company?

A. The Broadway Trust Company.

Q. Where is that located?

A. Broadway and Walnut.

Q. For what purpose were you there?
A. Looking for Paul.
Q. Did you have your car?
A. I did.
Q. Where were you in the car and Schuck?
A. We were both in the front seat.
Q. And where was the car stopped, on what street, Broadway or Walnut?
A. On Walnut near Broadway.
Q. Did you see Mr. Paul at the bank that afternoon?
A. We saw him come out of the bank.
Q. Where did he go?
A. He got on a trolley car.
Q. Who were you waiting to see?
A. Mr. Paul.
Q. What was your intention if you had seen him and had an opportunity to speak to him?

Mr. Carrow: Don't answer the question, I object.

The Prosecutor: I will change it in another way.

Mr. Carrow: I object to that question; I understand the Prosecutor is going to change the form of the question.

The Prosecutor: I do not think it is wrong, but I will do it.

Q. You say you were waiting on Walnut Street near Broadway?
A. We were.
Q. Had you talked with Raymond Schuck as to why you would be there at that particular place?
A. Yes, sir.

Q. What had been said between you as to the reason for your being at Broadway and Walnut at that time?

A. That he carried a lot of money and we were going to try to get it.

Q. Did you see Paul, you say, come out of the bank?

A. He came out of the bank.

Q. Then where did he go?

A. He got on the trolley at Broadway and Walnut.

Q. What did you two then do?

A. We followed the trolley car as far as Third and Federal and he got off there at Third and Federal.

Q. Where did you next see Mr. Paul?

A. He came out of the Camden Safe Deposit and Trust Company and then walked on Federal to Front and Front to Front and Market and there he went in the National State Bank.

Q. And then where did he go?

A. He came out of there and walked down Market toward the ferry.

Q. Was it the National State or the First National?

A. The First National, I should have said.

Q. And where were you when he went to the ferry?

A. As he entered the pavement alongside of the sheds we drove in back and went down as far as the gate.

Q. For what reason did you go to the gate?

A. To try to grab the money as he passed by.

Q. Had you and Schuck previously talked that matter over?

A. We had, yes.

Q. What plans had you made between you as to taking the money?

A. There weren't any plans, any more than we would try to get the money.

Q. Had any arrangement been made as to how you were to make your escape?

A. No, sir, there was not.

Q. Where was it you intention to take the money from him with relation to where the shed is, or the opening into the shed that leads from the sidewalk to the parking place?

A. There is a gate there that they use for an entrance for the parking of cars.

Q. And is that the point that you expected to take the money?

A. Yes, at the gate, yes, sir.

Q. Did you have any particular reason between you for selecting that spot?

A. Didn't have any particular reason, only that we thought that would be a good place to get it.

Q. For what reason?

A. To get the money.

Q. I mean, did the gate have any particular part in your plans?

A. We thought we could lock the gate after we got the money there at that point.

Q. That was on Friday?

A. That was on Friday.

Q. Then on Monday, Mr. James, did you see Paul?

A. I am not sure whether it was on Second Street or whether he got in my car on Broadway.

Q. Was Mr. Schuck with you at that time?

A. He was waiting for me I think one square below the bank.

Q. That is, the Broadway Trust Company?

A. Yes, sir, he was waiting at Broadway and Spruce.

Q. Did you get Schuck first or Paul?

A. Mr. Paul.

Q. And then did you pick Schuck up when you came to Spruce Street?

A. Yes, and he got in the back seat.

Q. Was Schuck there by arrangement?

A. He was.

Q. Where did you go with Mr. Paul that afternoon?

A. He went to the National Bank at Front and Marget from there.

Q. And then where?

A. To the back of the sheds at the ferries.

Q. At the same spot where you have indicated before in pointing at this exhibit?

A. Yes, sir.

Q. What took place, if anything, when you reached that point?

A. We stopped the car there and we intended to get the money that day, but we didn't get it, and Mr. Paul got out and we three walked out as far as the drug store at the terminal there; we left Mr. Paul at that place.

Q. Where did you go that afternoon, that is, Monday afternoon, after you had left Mr. Paul at the drug store at the terminal?

A. We met a young lady as we were coming back to the sheds and went to the bungalow that afternoon at Clementon.

Q. Did Schuck accompany you to the bungalow?

A. He did

Q. How long did the three of you remain at the bungalow?

A. I think it was around six o'clock.

Q. And then where did you go?

A. I think I went home after we left this party out at Third and Cooper.

Q. Was there any thing said between you and Schuck as to your meeting the following day?

A. Yes, sir.

Q. What arrangements were made between you to meet the following day?

A. We were to meet on Third below Federal at the elevated railroad.

Q. At any particular time?

A. 1.30.

Q. 1.30?

A. To meet Mr. Paul again.

Q. Had you made any arrangement with Mr. Paul to meet him that afternoon?

A. I had an engagement with him, yes.

Q. Did Mr. Schuck know of that engagement?

A. He did.

Q. What time were you to meet Schuck by your arrangement?

A. 1.30.

Q. Was there anything said between you as to what, if any, excuse should be given by either of you as to where you would be the rest of the afternoon?

A. No, I did not have to make any excuse for where I was.

Q. Did Mr. Schuck say anything about what, if any, excuse he had made?

A. I don't recall whether he did or not.

Q. What time did you meet him?

A. 1.30, or near there.

Q. On Third Street below Federal?

A. Yes, sir.

Q. What time was your engagement to meet Paul?

A. 1.45.

Q. At what place?

A. 60 North Second Street.

Q. Were you standing on the sidewalk or driving the car when you met Schuck?

A. The car was standing at this place on Third Street.

Q. Who took the driver's seat when you two met?

A. Schuck.

Q. And where did he drive the car?

A. I think he drove down by the Broadway Trust Company and went on back and met Mr. Paul getting off of the car at Third and Federal.

Q. At Third and Federal?

A. Third and Federal.

Q. Where did Mr. Paul get into your car?

A. On Second near Arch.

Q. Did you follow him around from Third Street to Second and Arch?

A. When he got off the car.

Q. Or did you go there and wait for him?

A. When he got off the car at Third and Federal we lost him in some way, and we drove up Second to Market and around Market to Third and back Third again and down Arch, and we met him on Second going toward Market.

Q. Who was driving the car?

A. Schuck.

Q. Where were you sitting?

A. Alongside of Schuck.

Q. When you met Mr. Paul you say that was at Second and Arch?

A. On Second near Arch.

Q. Did he have anything with him?

A. He had a package.

Q. And where did Mr. Paul sit after you met him?

A. I got into the rear seat and he took the seat alongside of Schuck.

Q. Where did Schuck then drive the car?

A. Front and Market.
Q. Was the car stopped there?
A. It was stopped at Front and Market.
Q. For what purpose?
A. For Mr. Paul to go in the bank.
Q. Did he go in the bank?
A. He did.
Q. Was he there very long?
A. About a minute is all.
Q. When he came out what did he do?
A. He came back and got in the car and we drove to the ferry.
Q. What course did Schuck take in driving the car to the ferry?
A. Down Market to Delaware Avenue and in back of the sheds.
Q. How far back of the sheds did he drive?
A. About a quarter of the way.
Q. Who stopped the car?
A. Schuck.
Q. What took place after the car was stopped?
A. I hit Paul.
Q. And what did Paul do?
A. As he turned around, Schuck gave him a shove and shoved him all the way into the back seat with me.
Q. Then what took place?
A. Then immediately Schuck turned the car around and started out again.
Q. Had the car been stopped while this took place?
A. The car had been stopped, yes.
Q. After the car was turned and started out, what if anything, was said?
A. I told Schuck to drive to the hospital, that I was sorry for what I had done.

Q. Then what course was taken when you reached Delaware Avenue?

A. Schuck turned around and went out Delaware Avenue to—I don't know what street it was on, I think it was Penn or Linden.

Q. Who selected the route?

A. Schuck.

Q. And you went out either Penn or Linden, one of those streets, you don't know which?

A. I don't know which, no.

Q. Did you at any time at the ferry or along Penn Street threaten Raymond Schuck with a revolver or by words, or in any way whatever?

A. I did not.

Q. After you reached the neighborhood of Seventh what course did you take?

A. I didn't pay any attention any more than that we got out on Federal Street finally.

Q. And how far out Federal did you go?

A. To the Marlton Pike, I think it is Twenty-first Street.

Q. Was anything said at the time you left the ferry and told Schuck to drive to the hospital as to what story would be told?

A. Between Schuck and I?

Q. Or Paul, as to how he was in the condition he was in?

A. He said as we left the ferry to tell them at the bank that he was held up.

Q. Did you stop any place on the route out Penn or on Federal?

A. As we left the Marlton Pike.

Q. Where did you stop?

A. Between Marlton Pike and Baird Avenue Bridge on Baird Avenue.

Q. Why did you stop?

A. I was exhausted with fright.

Q. what took place when you reached the locality or spot which is shown in Exhibit S3—I presume that is the locality you refer to where the car was stopped, is it not?

A. Yes, sir, right up in here.

Q. What took place after the car was stopped?

A. Schuck took the iron and hit Mr. Paul twice with it from the front seat.

Q. Did Mr. Paul say anything at that time?

A. He did say something just before Schuck hit him, I don't recall what it was.

Q. Did he make any reference to the money?

A. He did, some remark.

Q. After Schuck hit him the two blows on the head with the iron, was anything further heard from Mr. Paul?

A. There was not.

Q. Where did you then drive?

A. I immediately got in the front seat alongside of Schuck and we took our course around the park to Kaighn Avenue, and out Kaighn Avenue out to the Marlton Pike.

Q. Did you pass anyone on the Marlton Pike?

A. A man by the name of Hillman.

Q. What point did you go with the car—did you pass through Marlton or Medford, do you remember whether you passed through Marlton or Medford?

A. No, we cut in in the back way there some way.

Q. Circled both places with a back road?

A. Yes, to Medford.

Q. When you reached Tabernacle, what did you do—where did you go with the car?

A. Well, I didn't know it was past Tabernacle at that time; I didn't know we were near any town.

Q. You didn't know it by name?

A. No.

Q. Have you since found the name of the place?

A. I have, yes.

Q. After reaching Tabernacle did you continue further into the pines?

A. We did, yes.

Q. Where did you go, do you remember the name of the place, the causeway?

A. I did not know it until I heard since.

Q. What is it?

A. Causeway.

Q. What did you do when you reached there?

A. We stopped the car and Schuck and I dragged Mr. Paul out of the car and put him in the woods.

Q. I beg you your pardon, I overlooked a matter: On the way up there did you shoot a revolver?

A. I did.

Q. For what reason?

A. To see if it would work more than anything else; we thought maybe Mr. Paul was suffering.

Q. Did you shoot at him?

A. I think I did.

Q. Do you know whether you hit him or not?

A. I do not, no.

Q. After you reached Irick's Causeway, who had been driving the car to that point?

A. Schuck.

Q. After the car reached there, what was done?

A. We stopped there and Schuck and I took Mr. Paul out.

Q. Who took the feet?

A. He and I.

Q. Where was the body taken?

A. About ten or fifteen feet from the road and left there alongside of the stream.

Q. Was anything done with respect to taking anything off of the body after you laid it there?

A. I took a wallet out of the inside coat pocket.

Q. What did you do with the contents of the wallet?

A. There were three five dollar bills. I gave Schuck one and kept the other two, and tore the contents up.

Q. Where did you cast the contents?

A. Right along there where we left him off.

Q. After leaving the body, on your return to the car what did you do?

A. We both got in the front seat and started back toward home.

Q. Did you make any effort to destroy any evidences of blood in the car?

A. I did.

Q. What was that?

A. I tore off the lining of the door.

Q. This kind of lining which is Exhibit S19?

A. Yes, sir.

Q. Was it this kind of tape——

A. It was.

Q. —— which is S16? And where were those pieces thrown?

A. Right near the causeway.

Q. Were there any other articles thrown away?

A. I threw the revolver away at the scene as well as this half spring we used.

Q. Did the spring being thrown away cause any damage to the car?

A. Broke the windshied.

Q. Who drove the car on the way back?

A. Schuck.

Q. Where did he drive the car to?

A. To the bungalow in Clementon.

Q. Whose bungalow?

A. Schuck's.

Q. For what reason?

A. To hide the money.

Q. What was done after you reached the bungalow?

A. We went there and opened the package. Then we decided that wouldn't be a good place to keep the money, so we tied it up.

Q. When you opened the package, was the money counted?

A. No, sir.

Q. Were there any slips to indicate how much there was there?

A. There was two slips.

Q. What were they?

A. I thought it was thirty thousand and five thousand, but Schuck says it was thirty-five thousand and five thousand.

Q. Who tied up the package?

A. I don't know whether it was Schuck or myself.

Q. Had you stopped any place previous to reaching the bungalow at Clementon———

A. Yes, sir.

Q. —— or after?

A. We stopped at a place to wash the car.

Q. On your way back?

A. On our way back, before we got to the bungalow.

Q. Where was that?

A. I am not sure. I think it was near Lucaston somewhere.

Q. Did Schuck assist in that?

A. He did; yes, sir.

Q. Did you stop any place after leaving the bungalow at Clementon?

A. We went from there to Westville.

Q. Did you stop any place to telephone?

A. Oh; North Woodbury.

Q. Where was Schuck when you did the telephoning?

A. Out in the car.

Q. Where was the money?

A. Out in the car.

Q. And where was the telephone?

A. In the station.

Q. Did you stop any place else on your way back?

A. At Westville.

Q. For what purpose?

A. For me to telephone.

Q. Did you make any purchase there?

A. I bought a shirt and collar.

Q. Where was Schuck when you were in the store?

A. He was outside in the car.

Q. Where was the money?

A. In the car.

Q. Now, on the way back from the pines, or at the pines, had you made any threats to the defendant, Schuck, saying that if he squealed you would drag him into the bad mess as bad as you were, or words to that effect?

A. I did not.

Q. Did you make any remark saying that he would have to stick to you or that if he would squeal you would drag him into it as bad as you were and he would have to go through with it?

A. I did not.

Q. No words to that effect?

A. Not any.

Q. Did Schuck have in his possession a revolver?

A. He did.

Q. What kind?

A. A vest pocket revolver; it was a pearl handle.

Q. Had you seen it before that occasion?

A. I had; yes, sir.

Q. Was he in the habit of carrying a revolver?

A. He was.

Q. What arrangements were made between you after you left the bungalow at Clementon?

A. Well, we had arranged for me to start to change my clothes.

Q. What arrangements were made between you as to the disposition of the money?

A. We didn't know what to do with it at that time, didn't know what we were going to do with it, where to put it.

Q. What did you decide as to where you would take it?

A. Finally to Schuck's house.

Q. At whose suggestion?

A. I think it was his.

Q. Did he give a reason for it?

A. His wife being out.

Q. Had you previously spoken of taking it to your house?

A. My father's house.

Q. Where did you go when you reached the City of Camden, to whose house?

A. Schuck's house.

Q. Was there anyone home?

A. There was not.

Q. What took place after you went into the house?

A. I changed part of my clothing there and we took the money down back of the cellar steps and hid it there.

Q. Was there any money taken by either of you at that time?

A. Schuck gave be two $500 packages, twenty dollar bills.

Q. Two $500 packages of twenty dollar bills?

A. Yes.

Q. Did he take any?

A. I think he took the same.

Q. Where did you go when you left Schuck's house?

A. Well, I went to a tailor's. I had a suit being pressed at Newton Avenue and Trenton Avenue.

Q. Was Schuck with you?

A. He was.

Q. Where was he while you were at the tailor's?

A. In the car.

Q. Where was the money at that time?

A. Schuck's house.

Q. Who had found the place for it under the cellar steps?

A. Schuck.

Q. The tailor you went to was at Newton Avenue and Trenton?

A. Yes.

Q. How far is that from the Camden police station?

A. About half a mile.

Q. Is it that far?

A. Yes, sir; the police station is on 5th and Federal.

Q. No, I don't mean that station. I mean the headquarters at the city hall.

A. About a square.

Q. So that the tailor's you were at was only about a square from the city hall?

A. Yes, sir.

Q. While you were in the tailor's, Schuck was outside in the car?

A. He was.

Q. And the money was at his home under the cellar steps?

A. Yes.

Q. Where did you go after you left the tailor's?

A. Schuck's office at Third and Federal.

Q. For what purpose?

A. To change part of my clothing there, which was a shirt and I think my collar.

Q. After you changed your clothing, what did you do?

A. Took the car to 60 North Second Street and walked to the ferry and got a jitney.

Q. Where did you dispose of your clothes?

A. Cooper Creek on Kaighn Avenue.

Q. Was that before you went to the ferry?

A. Yes, before we went to the ferry.

Q. In what way were your clothes wrapped up?

A. Schuck wrapped them up and put a brick and tire tape around them.

Q. What did you do with them then?

A. Took them out to Kaighn Avenue bridge and throwed them overboard.

Q. Was anything else thrown over there?

A. Side curtains.

Q. Then you say after leaving his office on Third Street at Arch you went to the garage at 60 North Second?

A. Yes, sir.

Q. What did you do there?

A. Put my car in the garage there.

Q. Then where did you go?

A. Federal Street ferry.

Q. What was done then?

A. We hired a jitney to take us to Kaighn Avenue ferry.

Q. Did you have any arrangement between you to go over Kaighn Avenue instead of Federal Street?

A. We thought that would be a better way to go in case someone was looking for us.

Q. After you went over the ferry at Kaighn Avenue, where did you go?
A. 15th and Market, or 16th.
Q. What did you do then?
A. We discharged the jitney and went in a restaurant and got something to eat.
Q. Then what did you do?
A. Came back to Broad Street station and hired another taxicab there.
Q. Where did you go?
A. We went to Broad and Girard Avenue. Then we went along 17th Street after that.
Q. Finally reached a saloon at 18th——
A. We did.
Q. —— and Shamokin?
A. Yes.
Q. What did you do in there?
A. We went in there and started to buy drinks.
Q. Did you meet people?
A. We did, yes.
Q. Go home with them?
A. We did.
Q. Were you and Schuck still together?
A. We were, yes.
Q. Did you remain together that night?
A. We did.
Q. In the same house?
A. Yes, sir.
Q. When did you leave that house, you two?
A. The following morning.
Q. Was that Wednesday?
A. Yes, sir.
Q. Where did you go then?
A. I think we walked around up town that morning and a part of that afternoon.
Q. Did you continue together during the day?

A. Yes, sir.

Q. Did you separate that evening?

A. We did.

Q. Where did you each go?

A. I came on back to the garage and got my car that night.

Q. Where did you take it?

A. To the Mt. Ephraim garage.

Q. Kept by Mr. Albertson?

A. Yes, sir.

Q. Where did you leave your car?

A. At Mr. Albertson's, Mt. Ephraim.

Q. When did you get the car again?

A. The following Wednesday.

Q. For what purpose did you leave the car at the garage?

A. To be repaired.

Q. Did you see Schuck again Wednesday night after you delivered your car to Mr. Albertson, I mean?

A. No, sir; I didn't. Not that night. I stayed home.

Q. When did you next meet him?

A. Eleven o'clock, at 17th and Walnut, or 16th and Walnut, I don't know which.

Q. The following morning?

A. At eleven o'clock

Q. Was that meeting at 17th and Walnut in Philadelphia by arrangement between you?

A. Yes, sir.

Q. Where did you go together after you met him there?

A. I don't recall where we did go.

Q. Did you ride in taxicabs?

A. We had hired—I don't know whether we hired it that day or the following day.

Q. Did Schuck leave you at any time during that day?

A. It was either that day or the following day.

Q Do you know for what purpose he left you?

A. To meet Mary.

Q. Do you know why he wanted to meet her?

A. To buy her a coat.

Q. Did you see him again the day that he bought the coat, either in the afternoon or evening?

A. He was to meet me at six o'clock that night, and he didn't get there until twelve.

Q. And where were you?

A. Mt. Vernon Street, I think it was.

Q. Did he know where you were?

A. Yes, sir; he was there.

Q. Did he come there late?

A. He did.

Q. Did you two stay together that evening at that house?

A. We did; yes, sir.

Q. Were you together on Friday?

A. I think we were. Friday, yes.

Q. Do you remember the trips you took on Friday in automobiles or otherwise?

A. We were taking trips most every day in automobiles.

Q. Did you on that day continue together and meet any women and go to the Colonnade Hotel that night?

A. Friday night; yes, sir.

Q. I show you Exhibit S22 and ask you if those two names are the registery of yourself and Schuck at the Colonnade Hotel on the evening of Friday, October 8th?

A. They are; yes, sir.

Q. What name did you have?

A. Johnson.

Q. What name did he have?

A. Scovell.

Q. And what address did you each give? t

A. Chicago.

Q. Did you stay together that evening at the hotel with the two women that you had?

A. We did, yes.

Q. And Schuck stayed there, also?

A. That night.

Q. Did you have separate rooms or the same room?

A. We had separate rooms.

Q. Did you see Schuck the following morning?

A. I did.

Q. That would be Saturday. Then where did you go?

A. Schuck left me sometime Saturday morning, and I went alone, riding in the afternoon by myself.

Q. Did you have any arrangement where to meet him that Saturday evening?

A. 62nd and Market at 7.30. I think it was 62nd.

Q. In Philadelphia?

A. Philadelphia.

Q. Did you meet him?

A. I did, yes.

Q. Did he bring anything to you?

A. He did.

Q. What?

A. A package of money.

Q. Where did he go?

A. He went on about 52nd and Market or Chestnut and got out again.

Q. Then did you see him again that evening?

A. No, sir.

Q. When did you next see him?

A. On Wednesday morning at his house, the following Wednesday.

Q. How did you happen to be there?

A. I inquired at the office and they said he was sick.

Q. Did you then go to his home?

A. I went to his home.

Q. Did you have any conversation with him at that time?

A. I did, yes.

Q. What was it?

A. I had told him I had been to your office and I thought we were all right, you had no suspicion.

Q. And what did he say?

A. He said well, to meet him at one o'clock at the Homeopathic Hospital.

Q. For what reason were you to meet that afternoon?

A. For him to drive my car back to Brooklawn. I had a friend——

Q. Whose car did you have at the time?

A. Mr. Ward.

Q. A Dodge car?

A. Dodge roadster.

Q. You made the arrangement to meet at one o'clock, you say, at the Homeopathic Hospital, to go after your car at Albertson's garage?

A. That is right.

Q. Did you two meet that afternoon?

A. We did.

Q. Where did you go?

A. We went to the Mt. Ephraim garage.

Q. For what purpose?

A. To get my car.

Q. Did you get it?

A. We did.

Q. Who drove it?

A. I did.

Q. Did he drive the Dodge car?

A. While I was waiting for my car he went to the New York Shipyard to see a friend of his, and when he came back I was down the road a little ways and he came on down after me.

Q. Then did you go?

A. We did.

Q. What did you do after you left?

A. I had started to clean my car, and in the meantime he had gone down the pike to buy me a new seat and floor boards.

Q. For what reason was there to be a new seat purchased?

A. The old seat was stained with blood.

Q. Did he call it to your attention or did you call it to his? How did it happen that he went after the seat?

A. He was driving the other car and I was cleaning the car while he was gone.

Q. Where did he get the seat?

A. Nicholson's garage.

Q. Who paid for it?

A. Schuck.

Q. What was done after you got the new seat?

A. I threw the floor boards out as he got back, then we both destroyed the rear seat and he took it down by the creek somewheres and threw it overboard.

Q. Was the new seat put in the place of the old one?

A. It was.

Q. Did you have any arrangement between you to say where the old seat had been thrown if you were asked by anybody?

A. I told them it was on the meadows, out Broadway near the Castle Kid.

Q. Mr. Schuck in his statement said the same thing, which was introduced in evidence this morning. For that reason I asked whether you had an arrangement that you both would say the same thing about Castle Kid line ditch locality.

A. Maybe I did tell him that was what to say if he was questioned.

Q. After it was thrown away were the floor boards also thrown away?

A. They were thrown away before the rear seat was.

Q. Then where did you come after that with the car?

A. We took my Ford to Brooklawn garage and ordered floor boards made there for it.

Q. Then where did you go after that? Did you get the new floor boards?

A. No, we couldn't buy them.

Q. They made them for you?

A. At the garage; yes, sir.

Q. Then where did the two of you go?

A. I took a trip to Camden.

Q. Where did you go?

A. I met my wife at her home.

Q. Did you see him again that day?

A. No, sir.

Q. Did you see him the next day, Thursday, the 14th?

A. Yes, I did. I went back to his house. I met him at half-past two.

Q. Under what circumstances?

A. To go back and bury Paul's body.

Q. Had that been spoken of the day before?

A. Yes, sir.

Q. At whose suggestion?

A. Schuck suggested the best thing we could do was to go back and bury the body.

Q. Did you make the arrangement for the following afternoon?

A. We did, yes.

Q. Where was to be the meeting place?

A. Schuck's house.

Q. What time did you meet?

A. It was about twenty minutes to three.

Q. Where did you go?

A. We went out to the Crew-Levick at the City Line and got gasoline, and then we went on the White Horse Pike to Haddonfield, and then the back way to Medford.

Q. What was done after you reached Irick's Causeway?

A. We stopped the car and we went over and dug a hole with the spades we had bought.

Q. Was the body still in the same place you had put it?

A. Yes, sir.

Q. Did you make any purchases before you reached Irick's Causeway?

A. We bought two spades and a rake.

Q. Is that one of the spades and the rake?

A. I couldn't tell. It was a similar spade.

Q. Was it similar to those?

A. Yes, sir.

Q. After you reached the body, where did you dig? Did you make any effort to dig?

A. Right near where the body was laying.

Q. Why did you not continue?

A. It was a swamp and we couldn't dig there.

Q. What was then done

A. We went on the opposite side of the road and dug a hole there.

Q. What was done after the hole was dug?

A. We both drug Mr. Paul out to the edge of the road.

Q. How did you drag him out?

A. We each had hold of a foot.

Q. Then what was done?

A. I tied his feet, and tied it to the car, and Schuck followed along while I drove.

Q. What did you do when you reached the spot opposite the grave?

A. I unloosened the rope from the car and we both drug Mr. Paul over to the grave.

Q. Then what was done?

A. Then we covered him over with dirt. I started first and then Schuck helped me. He was gathering other things around where we had drug him from while I was doing that.

Q. Who dug the grave?

A. We both did.

Q. Who filled it up after he was in?

A. I first put some in.

Q. Then who finished?

A. We both finished.

Q. After burying the body did you return to Camden?

A. Yes, sir. No, I returned to Collingswood.

Q. For what reason did you go to Collingswood?

A. It is nearer for me to go home by way of Collingswood than it was by Camden, and Schuck took a trolley car at that place.

Q. What had become of the spades and the rake?

A. We had thrown them away.

Q. Then you were arrested on the finding of the body, the day the body was found, October 16th, weren't you?

A. On a Saturday night, yes.

Q. Now, Mr. James, at any time from the Friday —on the Friday, Monday or Tuesday of the disappearance of Mr. Paul, or at any time since that, on any day whatever, did you point any revolver at Mr. Schuck and order him to drive the car or to do what you would tell him to do, or to take any part in this crime?

A. I did not.

Q. Did you on any of those occasions threaten him in any way whatsoever by any language or in any way?

A. No way at all; no, sir. I didn't have no revolver. The revolver was alongside of the driver's seat when we started until we got to where we took the body out. I hadn't had any until that time.

Q. In the front seat?

A. Until we got on the Marlton Pike, I should say. On the front seat alongside of where Schuck was sitting.

Q. And did he know that that revolver was there?

A. I think he did. He gave it to me.

Q. Now, at no time, you say, you have threatened him, either directly or indirectly?

A. Absolutely not.

Q. In no way whatsoever?

A. No.

The Prosecutor: If your Honor please, I have overlooked one question I would like to ask.

The Court: Very well, you may ask the question, Mr. Wolverton.

By the Prosecutor:

Q. Mr. James, did Raymond Schuck tell you where he had hidden the money?

A. He did.

Q. Where did he tell you it had been taken?

A. New Camden Cemetery.

Q. Where is that with relation to the Evergreen Cemetery?

A. Right opposite.

Q. Did he say where it was in the New Camden Cemetery?

A. I don't remember whether he did or not, somebody's grave, he said.

Q. Did he at any time tell you it was in the Evergreen Cemetery?

A. He did not, no, sir, not until you did, then I knew.

Cross-examination.

By Mr. Carrow:

Q. Mr. James, you were convicted of murder in the first degree for causing the death of David S. Paul last December?

A. Yes, sir.

Q. During the course of that trial did you go on the stand in your own behalf?

A. I did not.

Q. Was a confession purported to have been made by you read at that trial?

A. Yes.

Q. Was that confession the truth?

A. Yes, sir.

Q. How long did you say you have known the defendant, Raymond Schuck?

A. About eight years, eight or ten years.

Q. About eight or ten years?

A. I think so.

Q. Been intimately acquainted with him during that time?

A. Yes, sir.

Q. How long have you known Mr. Paul?

A. I have known Paul all my life, the most part of it.

Q. Were you more or less intimately acquainted?

A. No, sir.

Q. Did you know where he worked?

A. I did.

Q. How did you know that?

A. I had business at the Broadway Trust Company several times and I saw him in there. The first time——

Q. Did you know what his position was at that bank?

A. Yes, sir.

Q. How did you know that?

A. Well, I don't know how I knew, but I did.

Q. Did he ever tell you what his position was there?

A. I don't think he had to tell me; I just knew from being in the bank.

Q. Did you know he was accustomed to carrying large sums of money?

A. Yes, sir.

Q. How did you know that?

A. He told me.

Q. Prior to October 5th?

A. Yes, sir.

Q. How long before October 5th?

A. About two weeks, I imagine, something like that.

Q. What did he say to you about it?

A. I went across the ferry with him one afternoon and he had this package, and at that time he was tell-

A. He got in the car, I cranked the car, and we drove down Third, I don't just remember the streets, to the Broadway Trust, down that way.

Q. What part of the car did he get in, the front or back?

A. He got in the front.

Q. Who drove the car?

A. Schuck.

Q. When he got in, did he get in behind the wheel?

A. He did.

Q. Was there anything unusual in that?

A. No, there was not.

Q. He had often done that before?

A. He had often drove.

Q. Where did you go after meeting Schuck, you say?

A. Was this October 5th?

Q. October 5th I am speaking about.

A. Why, I just don't remember where we went, but, however, we met Mr. Paul at Third and Federal saw him getting off the car at Third and Federal.

Q. Had you had an engagement to meet Mr. Paul that day?

A. At 60 North Second.

Q. Well, were you there at Third and Federal when he got off?

A. Schuck and I were both in the car.

Q. Did you call to Mr. Paul there?

A. No, we did not.

Q. How did Mr. Paul go in going around to 60 North Second?

A. We missed him as he got off the car in some way, and we drove around Second to Market and down Market to Third again, and upon reaching Second then that is where we caught up with Mr. Paul again on Second near Arch.

Q. Which side of Arch was he on, Second?
A. On the east side.
Q. No, I mean which side of Second Street?
A. The east side.
Q. The east side of Second Street?
A. Yes.
Q. Above Arch?
A. Above Arch, between Arch and Market.
Q. Then what happened?
A. There is where Mr. Paul got in the car, and I got in the rear seat.
Q. Was there anything designed about that?
A. What do you mean, designed?
Q. Did you have any deliberate purpose in getting in the back seat?
A. Yes, in order to have——
Q. What was that purpose?
A. For Mr. Paul to get in the front seat.
Q. Outside of that did you have any other reason for getting in the back seat?
A. Well, we were going to try to get the money, we didn't know how we were going to do it, but we had planned to get the money.
Q. What plans had you made about it with Mr. Schuck?
A. Well, we had tried two days before that to try to get it in some way.
Q. Well, when you say you had plans to get the money, what do you mean, you had plans to get the money?
A. Well, we had talked it over, we would like to have gotten it, that was our plans. There was no plans.
Q. There were no plans, were there?
A. That is, how to take it, what to do with it, or anything of the sort.

Q. Were there any plans made between you and Schuck as to how you were going to get this money from Mr. Paul?

A. No, we were going to get it in some way, we didn't know how—or try to get it.

Q. But you got in at the back of the machine for that specific purpose?

A. Well, that was the only way for him to get in; the curtains were up, we would have to let him in the back——

Q. In order for him to enter the back of the machine it would have been necessary to have taken down the side curtains, wouldn't it?

A. Yes.

Q. Before the door could have been opened?

A. That is right.

Q. When you got into the back of the machine had you any idea that you were going to get Mr. Paul back there?

A. No, I don't know as we did.

Q. So that the fact that you got into the back of the machine hadn't any particular bearing on the commission of this crime?

A. No.

Q. Now, you weren't particular whether Mr. Paul got in the front or got in the back?

A. No, I was not.

Q. Do you remember what Mr. Paul said when he got in the machine?

A. He asked me if I intended to go to Philadelphia with him that afternoon.

Q. What did you say?

A. I said no.

Q. Did Mr. Paul know Mr. Schuck?

A. He did.

Q. Did he speak to him?

A. Yes, sir, he met him the day before.

Q. What did he say to him?

A. Oh, I don't know any more than bid him the time of day, or something like that.

Q. Now, you say he asked you if you were going to Philadelphia that afternoon?

A. Yes.

Q. What did you say?

A. I told him no.

Q. Had you any idea of going to Philadelphia that afternoon?

A. I had not.

Q. Then what—was there any more conversation before the car was started?

A. No, it only took a second when he got in, we kept right on going. We stopped at Front and Market at the bank.

Q. How did you know to stop there?

A. He said he had an errand in there.

Q. And did he say what his errand was there?

A. He did not.

Q. Did you know what his errand was?

A. No, I did not.

Q. When he got into the car did he have anything with him?

A. He had a package.

Q. Just describe what kind of a package it was, please?

A. It was a package about fourteen or fifteen inches long, possibly four inches wide.

Q. How was it wrapped?

A. In white paper, heavy cord.

Q. When he got into the machine did he take the package in with him?

A. In the bank?

Q. No, in the machine?

A. Yes, he had it all the time.

Q. And you say he asked you to stop at the First National Bank?

A. He asked me or Schuck, I don't know which it was; Schuck was the driver.

Q. Where did the car proceed from there?

A. Down Market to Delaware Avenue, then in back of the sheds at Delaware Avenue.

Q. No, I am speaking about the time when you started up your machine on Second Street when he got in, then where did you go?

A. From there to Front and Market.

Q. Front and Market, and what happened there?

A. He got out and went in the National Bank there.

Q. How long was he in there, do you know?

A. Not over a minute or so.

Q. Did you notice him come out?

A. I did; I think I did.

Q. Did you see him—are you sure about that, Mr. James?

A. I am not positive, no.

Q. Did you see him wave to anyone?

A. No.

Q. And he got again in the machine?

A. Yes.

Q. Again in the front seat?

A. That is right.

Q. Then what—where did you go?

A. Down Market as far as Delaware Avenue and in back of the sheds from Delaware Avenue.

Q. Then what happened?

A. Then Schuck stopped the car and we got——

Q. Now, just a minute, where did he stop the car?

A. In back of the sheds.

Q. Were there any other automobiles there?

A. There were.

Q. Had you ever been in back of these sheds before?

A. Yes.

Q. Many times?

A. Many times.

Q. In fact, was it a custom of yours to park your car there if you were going to Philadelphia?

A. It was.

Q. And you say the machine was stopped between two automobiles?

A. No, you asked me if there was other cars back there; I don't know whether we stopped between any two automobiles or not; there was cars near there.

Q. And on the way down from the First National Bank to the ferry back of the sheds did you have any conversation with Mr. Paul?

A. I don't remember whether I did or not. I imagine I did talk to him on the way down.

Q. Did you have any argument with him?

A. No, not then.

Q. About anything?

A. No.

Q. Did you have any heated argument?

A. Not until we stopped the car in back of the sheds.

Q. Then the argument started when you stopped the car?

A. He said something about me double-crossing him, or telling some ice man about a woman he was running around with, I don't know what it was now.

Q. Then what did you do?

A. Then I hit him.

Q. What did you hit him with?

A. I hit him with my fist first. I had a hammer and the end of the hammer fell off.

Q. Wait a minute, please. You hit him with your fist?

A. With my fist.

Q. Was he facing you when you hit him?

A. I don't think so; I don't remember.

Q. Do you know where you hit him?

A. On the head.

Q. Do you know on what part of the head?

A. No, I don't.

Q. Why did you hit him?

A. He provoked me about this argument with the women, and I thought that would be a good time to start to get the money.

Q. Did you hit him hard?

A. Quite hard, yes.

Q. Did you hit him as hard as you could?

A. No.

Q. Did you intend to injure him when you hit him?

A. No.

Q. What did he do after you struck him?

A. He turned around to get his gun, and as he did Schuck pushed him back clean in the seat with me in the back of the car.

Q. How do you know he turned around to get his gun?

A. I saw him.

Q. Did he get his gun out?

A. He made an effort for it, but Schuck pushed him before he could get it.

Q. Then what happened?

A. Then I hit him with this iron.

Q. What kind of an iron was it?

A. Part of a front spring of a Ford car. I used it for changing tires.

Q. How long was it?

A. About 16 inches long.
Q. How wide?
A. An inch or inch and a half wide.
Q. Heavy? About how much would it weigh?
A. A pound and a half, I imagine.
Q. Where did you hit him?
A. On the head.
Q. What part of the head?
A. In the middle of the head.
Q. Right in the middle of the head?
A. I imagine, yes.
Q. Did you hit him hard?
A. I did.
Q. Did it bring blood?
A. It did, yes.
Q. Did you hit him more than once?
A. Yes, sir.
Q. How many times?
A. Hit him four times in all.
Q. Up to that time had Schuck hit him?
A. Not then, no.
Q. Then did you stop hitting him?
A. I hit him twice at the ferry, along there, and I don't know when I hit him after that.
Q. That is what I meant, when I asked you how many times did you hit him. I meant how many times at the ferry.
A. I couldn't tell you.
Q. Would it have been more than once?
A. Possibly; yes, sir.
Q. You don't remember?
A. I don't remember.
Q. Then what occurred between you and Paul?
A. Paul asked me how we were going to fix this up with the bank.
Q. Didn't you say to him you were sorry?

A. I did.

Q. Just tell us what you said to him.

A. I said, "I am sorry for what has happened," and I said, "Schuck, drive him to the hospital."

Q. What did Mr. Paul say?

A. Then he says, "How are we going to fix this up at the bank?" He says, "You tell them that I was held up at the bank and you came along in the meantime and took me to the hospital."

Q. Was anything said at that time about money?

A. No.

Q. Where was the money then?

A. I think Schuck pushed the money back to him. I am not sure.

Q. Then you say you told Schuck to drive to the hospital?

A. I did, an he turned around.

Q. Did you mean that?

A. I think so, yes. I didn't tell him not to.

Q. No. I said did you mean for him to go to the hospital?

A. Yes.

Q. You felt really sorry for what you had done at that time?

A. I did. I did.

Q. Then what happened?

A. Well, then Schuck just took the directions himself. I didn't tell him where to go. He merely drove out Delaware Avenue. In turning around all this happened. Schuck merely drove out back of the sheds and turned north on Delaware Ave. and then I didn't know where we was, what street. I knew it was Linden or Penn or some street, but I didn't know exactly just which one.

Q. At that time, as the car was coming out of Delaware Avenue and out from back of the sheds and up

Delaware Avenue, did you and Paul have any further conversation?

A. I don't remember if we did.

Q. Was he conscious?

A. I think so.

Q. What was his position in the car at the time?

A. Laying down on the bottom of the floor.

Q. Lying down?

A. Yes. I had his head in back of my arm.

Q. Were you on the floor, too?

A. No, I was on the seat. I was holding his head.

Q. Which side of the seat?

A. I was on the left-hand, back of Schuck.

Q. Then what occurred?

A. Well, we just went on, that was all. I don't know of anything that occurred right there.

Q. Did you hit him again after that?

A. I don't remember where I hit him, Mr. Carrow.

Q. I say, did you hit him again?

A. I did between when we left the ferry and the Marlton Pike somewhere, but just where I don't know.

Q. What did you hit him with?

A. The same iron.

Q. Do you know how many times you hit him?

A. I think four in all.

Q. How did Schuck come to drive the machine out Federal Street?

A. Well, we were trying to get out of the city.

Q. Did you tell him to go out there?

A. I didn't tell him nothing.

Q. Did you tell him to turn off on Marlton Pike?

A. If I did, I do not remember.

Q. Did you tell him to stop the car out in Baird Avenue?

A. I did.

Q. What for?

A. I said, "If Mr. Paul is suffering, it is a shame," and he grabbed the iron and leaned over and hit him twice himself.

Q. Where was Mr. Paul at that time?

A. On the floor.

Q. Which side of the car was his head on?

A. The left-hand side—which side of the car was his head hit?

Q. His head, yes.

A. I don't know, I couldn't tell.

Q. You don't know the position of his head?

A. He was lying on his back.

Q. Were you still holding him out there?

A. Sir?

Q. Were you holding him out there?

A. Not at that time, no.

Q. You stated you were on the left side when you were holding his head?

A. Yes.

Q. That was before you hit him the second time that you remember that you were holding his head?

A. Yes, I had his head.

Q. After you hit him that time did you drop his head?

A. I can't remember whether I did or not.

Q. When Schuck had hit him did you have hold of him?

A. No, sir.

Q. Do you know what his position was, the position of his body?

A. He was lying on his back with his head up against the door.

Q. With his head up against the left door?

A. The left hind door.

Q. What position were his knees in?

A. I don't remember, Mr. Carrow. They were cramped, I imagine.

Q. Where were you sitting?

A. On the back seat.

Q. Which part of the back seat?

A. I had moved over on the right side, making an effort to get up with Schuck at the time.

Q. On the right-hand side?

A. Yes, sir.

Q. Schuck took the iron, you say, from you?

A. He took the iron from me.

Q. And did what?

A. He got on his knees and hit Paul twice.

Q. Leaned over the—

A. Back.

Q. —the back of the front seat and hit Paul twice?

A. Yes, sir.

Q. Hit him hard?

A. I don't know whether he did or not.

Q. Do you know where he hit him?

A. I imagine it was on the side of the head somewhere. I don't know. I couldn't tell.

Q. Then what happened?

A. I was in the front seat in the meantime, and we drove on around—

Q. After that you got in the front seat?

A. I got in the front seat.

Q. What occurred then?

A. We just continued on around through the pike.

Q. Did you have a revolver with you then?

A. I did not.

Q. Did you try to shoot yourself?

A. Not then, no.

Q. When?

A. I didn't try to shoot myself at all.

ing me about the amount of money that was in there, $35,000 he said.

Q. Do you remember what day of the week that was?

A. I don't remember, no.

Q. What else did he say about it?

A. Why, I don't recall what else he said any more than it was a nice package of money.

Q. Did he say anything about his custom to carry large sums of money to Philadelphia?

A. Yes, he said that was customary for him to do that.

Q. Did he mention any amounts?

A. He said there was some days he carried more than that.

Q. Did he say what days?

A. He didn't say what day.

Q. Did he say he ever carried any less money than that?

A. I don't know as he said any less, no, sir.

Q. But he said more?

A. He said more, yes.

Q. But he didn't say what days he carried more or less money?

A. No, he didn't.

Q. Prior to October 5th, had you ever had any argument or disagreement with Mr. Paul?

A. No, sir.

Q. No serious argument or disagreement with him?

A. No, sir.

Q. What kind of a day was it on October 5th?

A. It was a day about like today, I imagine, possibly not so cold.

Q. A clear, warm, day?

A. A clear day.

Q. You stated in your direct examination, I think, that the curtains on your automobile were up?

A. They were.

Q. Was that unusual?

A. It was on a clear, warm day.

Q. Were they put up for a purpose?

A. Yes, sir.

Q. Did this defendant know of that purpose?

A. He did.

Q. Where did you meet Schuck on that day?

A. On Third Street below Federal, at the elevated railroad.

Q. Below Federal or between Federal and Arch?

A. No, between Federal and Washington.

Q. Oh, down south of Federal?

A. South of Federal.

Q. You say you had an appointment to meet him there?

A. I did.

Q. At what time?

A. 1.30, I think it was.

Q. Was he there on time?

A. He wasn't very late.

Q. Was he late?

A. He was late, a few minutes late, yes, because I went to his office and looked in to see if he had gone, and he had.

Q. Oh, you went up to his office?

A. I left my car standing there and the world's series was going on, and I went up to look at the scoreboard, and in the meantime I looked in his office, and he wasn't there, so I walked on back to the car. Shortly after that he came across and came down there.

Q. Then what happened?

Q. Well, when did you get the revolver?

A. After we got on the Marlton Pike. It was a little .22 revolver Schuck had gave me sometime before that, and it was alongside of him where I always carried it, alongside of the driver's seat, and I took it from alongside of him when we got on the Marlton Pike some place.

Q. I understood in your confession at your own trial—

The Prosecutor: If there is any particular part of that that he wishes to present—

The Court: Yes. Just refer to that, Mr. Carrow. That would be the proper way to direct the witness' attention to it.

Q. During the course of your trial, Mr. James, there was introduced in evidence a confession purported to have been made by you, statements made by you to Prosecutor Wolverton?

A. Yes, sir.

Q. And one of those questions was as follows: "Q. Did you do anything else to Paul other than hit him with your fist and then with this iron bar?" "A. As I was going out the pike I had a revolver and it wouldn't work. I just leaned back there and I didn't see where I was shooting. I don't know whether I shot him or what."

Do you remember that?

A. I do.

Q. That is true, isn't it?

A. Yes, sir.

Q. How many times did you shoot?

A. Twice.

Q. "What was your purpose in shooting?" "A. Going to shoot myself." Was that true?

A. I don't think it was.

The Prosecutor: The question that is directed to the witness, if I remember correctly, was "Did you try to shoot yourself?"

The Court: And he is calling his attention to this statement to show that on another occasion he had said something somewhat different.

The Prosecutor: I have no objection if he uses the same language that he did in speaking to the witness, but his previous question was, "Did you try to shoot yourself?" This time it was, "Did you intend to shoot yourself?"

Mr. Carrow: I am merely reading Mr. Berry's transcript of questions and answers at the last trial, and that question was, "What was your purpose in shooting?"

The Court: That has been entered on the record. You have that and you have the witness' answer to it.

Q. You say now that that was not so.

A. I don't remember, Mr. Carrow. I can't remember.

Q. In fact, you were exhausted at that time—

A. I was nervous.

Q. —mentally and physically, weren't you?

A. Yes, I was.

Q. Greatly excited?

A. I was.

Q. Do you really recollect clearly what happened on that trip from the ferry to—

A. Not clearly, no, but I know what I done.

Q. Do you recollect clearly whether or not this defendant struck any blows?

A. I do.

Q. Did you shoot Mr. Paul?

A. I couldn't say. I shot back there. Whether I hit him or not I don't know.

Q. Do you remember making a statement to Prosecutor Wolverton in the Mt. Holly jail?

The Prosecutor: I have no objection for counsel to ask any such question if he fixes the time.

The Court: I think that question is permissible: Does he remember making a statement, not the particular statement.

The Prosecutor: The reason I said that was because there was more than one statement.

Q. Do you remember the first statement that you made to Mr. Wolverton in the Mt. Holly jail?

A. I only made one there, I think.

Q. Was that to Mr. Wolverton?

A. Yes, sir. I made one to Mr. Parker.

Q. What is that?

A. The first one I made was to Mr. Parker.

Q. And did you tell Mr. Parker in that statement anything about this defendant striking any blows?

The Prosecutor: Wait, Mr. James. I object to that form of question. If the purpose is to contradict the witness, I ask that it be put in the form that he be presented with the words that he said and

asked whether or not he said those particular words in answer to a particular question, not the general statement "Did you say anything about the defendant having struck any blows."

(Question repeated.)

The Court: I will allow that question.

The Prosecutor: The difficulty is this: You see, in that way, counsel for the defendant is enabled to ask in a general way as to a statement. He is not laying the foundation to dispute it if this witness gives what he considers an incorrect answer, and the witness, I think, is entitled to be presented with the exact words that were said, both by Mr. Parker and by himself on that occasion.

The Court: I will allow this question, Mr. Wolverton.

A. I did not.

Q. Did you make a statement to Prosecutor Wolverton in the Mt. Holly jail?

A. Yes, sir.

Q. Which was taken down stenographically?

A. Yes, sir.

Q. By whom?

A. Mr. Berry.

Q. In that statement did you say anything to the effect that this defendant struck Mr. Paul any blows?

A. I did.

Q. In your first statement, in the statement you made to Mr. Parker, did you say that there was no conspiracy between you and this defendant to rob Mr. Paul?

A. I did.

Q. Did you say that in your statement to Mr. Wolverton?

A. No, sir.

Q. Do you remember the day after your case was concluded last December, December 21st, having a conversation with a representative of the press in the county jail?

A. Yes, sir.

The Prosecutor: If the Court please, I ask who, when, where and under what circumstances.

The Court: I think the question should be more definite as to with whom and when and where.

Q. Do you remember talking with a Mr. Carson?

A. I don't remember the name.

The Prosecutor: Is Mr. Carson in the room?

The Court: I think he has a right to ask that question.

Q. Do you remember that?

A. I don't recall the name; no, sir.

Q. Do you remember having a conversation with a man by the name of James Dougherty in the county jail?

A. He was in the jail with me, in the same cell.

Q. Did you ever tell him—

The Prosecutor: When was this conversation?

Q. Before your trial?

A. He was there when I was committed here.

Q. Well, before that time did you ever tell him that there was no conspiracy between you and Schuck to rob Mr. Paul?

A. No, I didn't.

Q. Did you ever tell him that Mr. Schuck did not strike any blows?

A. I did not.

Q. Do you know a man by the name of John Turnison?

A. Another partner of his, yes.

Q. Did you ever tell him that there was no conspiracy?

A. I did not.

The Prosecutor: May I ask when and where?

Mr. Carrow: In the Camden County jail before your trial.

The Prosecutor: When, before the trial?

Mr. Carrow: Before the trial; the witness answered he did not. Now, is Mr. Carson here yet?

The Court: You probably have other questions that you want to know.

Mr. Carrow: No, I have not.

The Court: Oh, no questions except this one—that will conclude the examination?

Mr. Carrow: Yes.

The Court: Then we will wait a few minutes for this gentleman.

(A man then entered the court room.)

Q. Mr. James, do you recognize Mr. Carson?

A. I don't know, he looks something like that gentleman, but I don't know whether it was he or not.

Q. I see; well, did you say to him, "I want it known, however that Schuck and I didn't start out with the intention of robbing Paul; instead we tried to avoid it"?

A. I did not.

Q. Did you say, "On October 5th Schuck and I had a date with two girls in Philadelphia; Paul also had an engagement with two women in Philadelphia and wanted me to go along, therefore, Schuck and I started out early, but we accidentally met Paul on the street, and he came along in the machine"?

A. I don't remember talking to that gentleman at all, Mr. Carrow, anymore than he asked me about what I thought of the case, and I referred him to Mr. Harris.

Q. Now, further, did you say to him, "There was no intention of robbery on my part, but Paul and I got into an altercation and that was the cause of the whole thing"?

A. As I say, I don't remember talking to him at all, any more than I referred him to Mr. Harris that day he was there.

Q. You say you don't remember saying that?

A. I do not.

Q. Will you say whether or not you said it?

A. No, I didn't say it, I don't think.

Q. You didn't say it?

A. No, there was company there with me at the time; the sheriff was there.

By the Prosecutor:

Q. You say the sheriff was there?
A. He was in company with the reporter.
Q. Was Mr. Hewitt there?
A. Sheriff Hatch.
Q. Did he hear the conversation?
A. He did.
Q. That took place between you and this reporter?
A. He was there all the time.
Q. Mr. James, in answer to a question by Mr. Carrow, you have said that you did not say anything about Schuck to Mr. Parker in that statement; how was it taken, questions and answers?
A. Which statement?
Q. To which he referred a few minutes ago which you gave to Mr. Parker in the Mount Holly jail; was it taken in question and answer form?
A. I think so; I told Mr. Parker that I didn't want to make a statement, and he said if I did not that night I would be indicted in Mount Holly, and he says, "I will tell you what Schuck says, so you can both say the same thing, so you won't be indicted in this county." And I says, "All right," and I made a brief statement.
Q. Did you answer his questions?
A. I don't recall whether he asked me or I told him, Mr. Wolverton.
Q. Did you have any other reason for not telling on Schuck at that time?
A. I didn't tell him any part, only enough—
Q. Did you tell him anything at that time beyond what was asked you in question form?
A. Very little; it was very brief; I don't know what it was. I told him I didn't care to make any until Mr. Harris was present.

(At this point a recess was taken until Friday morning, February 18, 1921, at 9.45 o'clock A. M.)

VOLUME II

FIFTH DAY.

Camden, N. J., February 18, 1921.

(Trial of the cause resumed at 9.45 o'clock A. M. on the above date, pursuant to adjournment, in the presence of the defendant and counsel for the respective parties.)

EDWARD MANNING, sworn.

By the Prosecutor:

Q. Mr. Manning, where do you live?
A. Camden.
Q. What business are you in?
A. Automobile salesman.
Q. Do you know the defendant, Raymond Schuck?
A. I do.
Q. How long have you known him?
A. About eight years.
Q. During the latter part of the week preceding the disappearance of Mr. Paul, did you see the defendant, Schuck, and James together?
A. I did.
Q. Where?

A. On the south side of Walnut Street near Broadway.

Q. Where is that in relation to the Broadway Trust Company?

A. Well, it is on the northwest corner of Broadway and Walnut—the southwest corner of Broadway and Walnut.

Q. On what corner is the Broadway Trust Company?

A. Northeast.

Q. So then it was what we might say diagonally across the street?

A. Yes, sir.

Q. Were they in a car?

A. In James' car.

Q. What way was the car facing?

A. Facing Broadway.

Q. Did you have any conversation with them?

A. I did.

Q. What was it?

A. I approached James and asked him what he was doing down here, in a joking manner, and I asked him if he had a date with a couple of women. He replied yes, and general conversation ensued. Finally James pulled out his watch and said, "I guess we are out of luck; shall we go?" Schuck replied, "Let's wait a while." I talked with them for a few minutes longer then went into the shop where I had stopped to get a few repairs done to my car.

Q. About what time in the afternoon was that?

A. About 1.45.

Q. Did you see them go away together?

A. No, sir, when I came out they were gone.

Q. Did you the evening before Schuck was to go to Mount Holly before the Grand Jury have a conversation with him?

A. Yes.
Q. Where?
A. On Broadway.
Q. Will you tell us what the conversation was?
A. I asked Schuck where he was going, and he replied he was going down to get a pack of cigarettes, and I walked down to the cigar store at Broadway and Mickle, and I asked him if he had seen Frank, and he said, "No." I said, "It is too bad Frank got mixed up in this." He replied, "Yes, it is; they have got nothing on us; I don't know why they are questioning me. I was called to the Prosecutor's office at seven o'clock, and," he said, "he wasn't there, the Prosecutor wasn't there and I came out and went down to get a pack of cigarettes."
Q. Go ahead.
A. This was about quarter of eight. He came out of the cigar store and walked up Broadway and into the Prosecutor's office; I left him there at the corner.

No cross-examination.

JONATHAN H. KELSEY, ESQ., sworn.

By the Prosecutor:

Q. Mr. Kelsey, where do you live?
A. I live in Pemberton, Burlington County.
Q. Will you speak a little louder, please?
A. Pemberton, Burlington County.
Q. Are you a member of the bar of the State of New Jersey?

A. I am.

Q. How long?

A. Since 1904.

Q. Do you hold any official position in the State of New Jersey?

A. Prosecutor of Burlington County.

Q. How long have you been Prosecutor of Burlington County?

A. Since 1915, April term.

Q. And you are now serving your second term?

A. I am.

Q. Do you know the defendant, Raymond Schuck?

A. I do.

Q. Did you have any conversation with him on the evening of November 10th or were you present at the time I took a statement which was introduced in evidence yesterday?

A. Part of it.

Q. That is, you came in while the statement was being taken?

A. I came in, yes.

Q. After the statement was concluded and Mr. Berry and I had left the room, did you remain?

A. I did, with Mr. Schuck.

Q. And did you have any conversation with the defendant?

A. I did.

Q. Will you tell us what it was.

A. Shortly after you left, you and Mr. Berry, Raymond turned to me and said, "Mr. Kelsey, we are in awfully bad shape, aren't we?" I said, "Yes, you are." Then I asked him, I said, "Raymond, how did you and James concoct such a diabolical crime as this?" He said, "I don't know, Mr. Kelsey; it appears to be a nightmare or a bad dream." "Well," I said, "who conceived it, you are James?"

He said, "I don't know, Mr. Kelsey, I guess it is fifty-fifty with us," he said, "we are a couple of bad eggs."

No cross-examination.

The Prosecutor: The State rests, if your Honor please, offering in evidence all of these exhibits which have been referred to in the testimony. I think I have offered them all, but to make sure that I have one so I would like to renew the offer in that general way. I think they are numbered from S1 to 34.

The Court: If there is no objection the exhibits numbered will be received in evidence.

STATE RESTS.

JONATHAN H. KELSEY, recalled.

By Mr. Carrow:

Q. You have been sworn, Mr. Kelsey?
A. Yes, sir.
Q. You testified, I think, that you were the Prosecutor of Burlington County?
A. Yes, sir.
Q. And as Prosecutor of Burlington County, did you take part in the investigation of the Paul murder?
A. I did.
Q. And as Prosecutor of Burlington County, did you order the sheriff of Burlington County to summon the Grand Jury of that county?

A. Ordered the clerk.
Q. Ordered the clerk?
A. Of the Grand Jury.
Q. For what purpose?
A. Investigate the Paul murder.
Q. At that time was there confined in the county jail of your county anyone, who, in your opinion, was implicated in this crime?
A. There was.
Q. What was his name?
A. Frank James.
Q. Did the Grand Jury convene?
A. They did.
Q. On what date?
A. Fifth day of November.
Q. Were witnesses summoned?
A. They were.
Q. Were they examined by the Grand Jury?
A. They were.
Q. And there was an indictment prepared by you against anyone?

The Prosecutor: If the Court please, I object. An indictment is not an official paper of a Prosecutor under any circumstances. No papers are indictments until they have been found by a Grand Jury and presented in court and received by the Court as an indictment. Until that time there are no indictments, the old system having been that papers were prepared by the King's counsel, or the State's attorney, or the Prosecutor, as it is now, and those bills presented to the Grand Jury, and the Grand Jury determined whether it should be a true bill or not. But no indictments or no charge is an indictment until it has had the action of the Grand Jury

and is presented to the Court as such. So that whether Prosecutor Kelsey prepared any indictment I deem is absolutely immaterial.

The Court: I cannot see how it is material, Mr. Carrow. In what way is it material, what Mr. Kelsey did in the preparation of an indictment?

Mr. Carrow: I asked the witness that question for the purpose, if your Honor please, of showing just how far he, as Prosecutor of that county, had gone in the investigation of this case.

The Court: Well, now, how is that material to any right that your client has?

Mr. Carrow: Well, if your Honor please, I do not know whether it would be proper for me to state in open court just how far I think that materiality goes or not.

The Court: Well, it is perfectly proper for you to state the grounds. I want your argument of why it is material, because I must say that it seems to me Mr. Wolveron's objection is well taken. I cannot see the materiality of the question.

Mr. Carrow: Well, if your Honor please, in order to bring up another phase of this same question, I will withdraw that question and ask another.

The Court: Very well.

Q. Did the Grand Jury of Burlington County find an indictment against Frank J. James?

The Prosecutor: If the Court please, I object to this proof as to whether an indictment was found by the Burlington County Grand Jury. Prosecutor Kelsey would not be the proper person to prove that by. The clerk of the court by whom the indictment was received, if any such indictment was, which we know was not the case, would be the proper witness to be called, and this is not the proper method of proof.

The Court: I think that the objection is well founded, and also I cannot see the materiality of the question. It seems to me to be immaterial what the Grand Jury of Burlington County did, Mr. Carrow, and I will overrule the question; and also on the ground that if it was material you would have to prove it by the record of the court, by the production of the records of the clerk's office, showing that an indictment was presented.

Mr. Carrow: Well, if your Honor please, no indictment against Frank J. James was actually presented.

The Court: Then, of course, it was no indictment. That is, that would be my view of it.

Mr. Carrow: It was not presented for a specific reason.

The Court: Well, that is immaterial, as I view it. I cannot see how that has any relevancy or materiality in this case.

Mr. Carrow: May I have an exception?

The Court: Certainly.

(Exception noted for defendant.)

(Signed and sealed accordingly.)

FRANK S. KATZENBACH, JR.,
J. (Seal)

JOHN B. KATES,
J. (Seal)

Q. Mr. Kelsey, were any witnesses examined by the Grand Jury?

A. There were.

Q. At that time was it your opinion as Prosecutor of the pleas that the crime had been committed in Burlington County?

The Prosecutor: I object to that. I think the foundation of the objection is so obvious that it does not need any great argument to sustain it. The opinion of Prosecutor Kelsey on a matter of that kind certainly would be hearsay evidence of such an extraordinary character that it would not be admissible. The question of the guilt or innocence of the defendant is to be determined by the facts in this case and not by the opinion of Prosecutor Kelsey of Burlington County or any other Prosecutor in the State of New Jersey.

The Court: The question is overruled, Mr. Carrow.

Mr. Carrow: May I have an exception?

The Court: With no disrespect to the opinion of Mr. Kelsey, of course. Yes, you may have an exception.

(Exception noted for defendant.)

(Signed and sealed accordingly.)

FRANK S. KATZENBACH, JR.,
J. (Seal)

JOHN B. KATES,
J. (Seal)

No cross-examination.

WALTER E. ROBB, sworn.

By Mr. Carrow:

Q. Mr. Robb, where do you live?
A. I live in Burlington, N. J.
Q. Were you foreman of the Grand Jury of Burlington County at the September term of court?
A. I was foreman of the October term.

The Prosecutor: Mr. Robb, will you please not answer any questions until I have had an opportunity to object?

The Witness: Sure. Beg your pardon.

Q. Did you attend a session of the Grand Jury in Mt. Holly on November 5th?
A. I did.
Q. Was the Paul murder case under investigation by that Grand Jury on that day?

The Prosecutor: If the Court please I object to what was under investigation by the Mt. Holly

Grand Jury on that particular day. The Grand Jury's proceedings are secret and must necessarily be so.

The Court: I think I will allow that question, Mr. Wolverton.

(Question repeated.)

A. That was on November 5th? Yes.
Q. Were witnesses examined?
A. Yes.
Q. Was this defendant examined?

The Prosecutor: I object as to who was examined, if the Court please.

The Court: I think I will allow the question as to whether this defendant was examined.

(Question repeated.)

A. No.
Q. Was the question of whether or not a bill of indictment against Frank J. James for causing the death of David S. Paul in Burlington County voted upon by the Grand Jury at that session?

The Court: Do not answer that question.

The Prosecutor: If the Court please, this deals in a very vital way with the work of a Grand Jury, which has always been—

The Court: You object to the question?

The Prosecutor: Yes, I do.

The Court: I overrule the question. It is irrelevant, incompetent and immaterial.

Mr. Carrow: May I have an exception?

The Court: You may have an exception, Mr. Carrow.

(Exception noted for defendant.)

(Signed and sealed accordingly.)

FRANK S. KATZENBACH, JR.,
J. (Seal)

JOHN B. KATES,
J. (Seal)

No cross-examination.

CHARLES H. GREER, sworn.

By Mr. Carrow:

Q. Mr. Greer, where do you live?
A. Camden.
Q. Where are you employed?
A. Pennsylvania Railroad ferries.
Q. Do you hold any official position there?
A. Superintendent.
Q. Superintendent of the ferries? The witness is shown Exhibit S1 and S2, picture S1 representing the conditions at Delaware Avenue and Market Street, showing the back way and the front way to the ferry.
A. Yes, sir.

Q. Is that a correct representation of that situation?

A. Yes, sir; it is.

Q. Witness is shown Exhibit S2, being a picture showing the way back of the ferry sheds, or sheds leading to the ferry—

A. Yes, sir.

Q. —and asked if that is a correct representation?

A. Yes, sir.

Q. Mr. Greer, is there anything unusual about automobiles parking back of those sheds?

A. No, sir.

Q. Is it done frequently?

A. Yes, sir.

Q. Every day?

A. Yes, sir.

Q. By many automobiles?

A. Yes, sir.

Q. Is it encouraged by the railroad company?

A. Well, it isn't encouraged by them, but they allotted that space for parking purposes.

Q. And they have placed a sign, have they not, here at Delaware Avenue and Market Street, showing the direction and saying, "Parking place"?

A. Yes, sir.

Q. Why was that done?

The Prosecutor: Well, if the Court please, the fact appears that it is used for parking purposes, and a sign has been placed there. I cannot see its materiality.

The Court: I think it will take less time, really, to let the question be answered, and it might have some bearing.

(Question repeated.)

A. About October 15th, 1919, Fulton, the firm who has the agency for the Studebaker car, leased that place back there, and they asked to have that sign made. We had the sign made for those people.

Q. Now, on October 5th, 1920, was there anything unusual about the condition of the highway, the street leading from Market Street down in front of the sheds?

A. I think there was.

Q. What was it?

A. I think the Public Service were making some alterations to their loop at that time.

Q. Is there a doorway leading from the back of those sheds on to the front part of the sheds?

A. Yes, sir.

Q. Is there a lock on that door?

A. No, sir.

Q. How is it fastened?

A. Just the ordinary thumb latch, ordinary thumb gate latch.

Cross-examination.

By the Prosecutor:

Q. Mr. Greer, what is the regular entrance to the ferry for traffic?

A. Vehicular traffic?

Q. Yes.

A. The approach from Market Street and Federal Street.

Q. Is it back of the sheds or down the regular—

A. Down the regular way, sir.

Q. —street? Is the entrance to the ferry a continuation of Market Street?

A. Yes, sir.

Q. Which is the most direct route into the ferry entrance?

A. The approach from Market Street to the regular entrance in front of the ferry building.

Q. Is there any entrance provided for automobiles or passengers by way of the parking place to the ferry?

A. Yes. On Sunday afternoons after 4.30, and holidays, the back entrance is used. The travel is diverted from the front way to the back way.

Q. That is only on Sundays and holidays?

A. Sundays after 4.30.

Q. Sundays after 4.30?

A. Yes, sir.

Q. So that it would be impossible for an automobile to go in by the parking way into the ferry on any other occasion than that?

A. On any other occasion; yes, sir.

Q. And which would be the nearest place to the ferry entrance, passenger entrance, for an automobile to deliver a passenger who intended going across the river?

A. The front way, sir.

Q. Down on this direct course?

A. Down that way, sir.

Q. Where is the passenger entrance with respect to this continuation of Market Street?

A. Well, Market Street—this is the entrance from Market Street and Federal Street and they meet at the apex there, and the ferry entrance is right at the apex of these two streets.

Q. Right at the apex?

A. Yes, sir.

Q. So that if an automobile had a person in it who was desirous of going across the river, the most direct course that could be taken to the passenger entrance would have been straight down?

A. Yes, sir.

Q. And that would have brought them the nearest way to the entrance, would it not?

A. Yes, sir; and the only way, sir.

Q. The only way?

A. We don't permit passengers to go in the back way, sir, foot passengers.

Q. And was that street being used for that purpose on October 5th?

A. Yes, sir.

By Mr. Carrow:

Q. If a person had an automobile and he wished to leave it at the ferry while he himself went to Philadelphia, where would he put it under ordinary conditions?

A. Well, some of the patrons park their cars on Delaware Avenue, and some back of that walk. Those that park their cars back of the walk use that little gate, that little doorway, to go through to the ferry.

Q. And a good many people do that?

A. Yes, sir.

By the Prosecutor:

Q. The little gate that you speak of is how far down the walk with relation to the entire course, one-third, two-thirds?

A. The walk is about 870 foot—the driveway is 870 foot long, and that gate from Delaware Avenue is about 450 foot down the walk.

Q. Jus a little over half way, then, to the ferry entrance?

A. Yes, sir.

RAYMOND W. SCHUCK, sworn.

By Mr. Carrow:

Q. What is your name?
A. Raymond W. Schuck.
Q. Where do you live?
A. 1139 Liberty.
Q. Where?
A. 1139 Liberty.
Q. Where were you born?
A. Camden.
Q. How old are you?
A. Twenty-nine.
Q. Are you married?
A. Yes, sir.
Q. How long have you been married?
A. Ten years.
Q. Any children?
A. I have one dead and one living.
Q. How old is the child living?
A. Six years old.
Q. How long have you known Frank J. James?
A. I should judge about ten years.
Q. On October 5th last did you see him?
A. Yes, sir.
Q. Where?
A. Third and Arch, Camden.
Q. What time?
A. I think it was shortly before one o'clock.
Q. Where were you employed?
A. Eastern Telephone Company.
Q. How long had you been employed there?
A. About ten years.
Q. In what capacity?
A. Cashier.

Q. And as cashier of the Eastern Telephone Company, what were your duties?

A. To take care of the company's accounts, take the money to bank, answer all the letters and everything.

Q. I can't understand you.

The Court: Speak a little louder, Mr. Schuck.

A. Yes, your Honor, to answer the letters that came in the office.

Q. You say taking care of the money?

A. Yes, sir.

Q. Now, what was your custom as to the time that you arrived at your place of business in the morning usually?

A. Between 8.30 and 9.00.

Q. On October 5th last what time did you arrive there?

A. About nine o'clock.

Q. Did you go out that morning?

A. No, I don't believe I did.

Q. Did anyone come to visit you there that morning?

A. Only people to pay their accounts.

Q. Did Frank J. James come to see you that morning?

A. No, sir.

Q. Did he telephone to you?

A. Not that I know of.

Q. What was your time for lunch, going to lunch?

A. I usually go about one o'clock after the rush hours.

Q. What time did you leave the office, did you say, on October 5th?

A. I think it was around one o'clock.

Q. Where did you go when you left the office?

A. Started for Staley's restaurant at Third and Market.

Q. In which direction is that from the Eastern Telephone Company's office?

A. That is north from the office.

Q. Where is the Eastern Telephone Company's office in relation to Arch Street?

A. It is just south of Arch Street.

Q. How far south of Arch Street- -have you any idea?

A. Well, it is between Federal and Arch.

Q. Now, when you went out of the door, did you see anyone?

A. I met Mr. James at Third and Arch.

Q. Right in front of your office?

A. At Third and Arch.

Q. Did he say anything to you?

A. He said, "Hello, Ray, where are you going?"

Q. What did you say to him?

A. I told him I was going to lunch.

Q. Did he say anything further?

A. He said, "Jump in and I will drive you around; first stop at the garage."

Q. Jump in what?

A. In his automobile.

Q. Did you see it?

A. It was standing along the curb.

Q. Where?

A. On Third Street just north of Arch.

Q. And which way was the automobile facing?

A. Facing south.

Q. What did you say when he asked you to jump in?

A. I said, "All right," and I jumped in.

Q. What part of the machine did you get in?

A. In the driver's seat.

Q. Had you ever done that before?

A. Yes, sir, quite a number of times. It didn't make any difference who got in, both of us knew how to drive.

Q. Had you a driver's license?

A. Yes, sir.

Q. Did you notice anything peculiar about the automobile?

A. No, not at that time.

Q. Did you notice whether or not the side curtains were up?

A. Yes, the back curtains were up.

Q. Was that unusual?

A. No, Mr. James had the back curtains up quite often.

Q. Now, when you got into the machine you say you got in behind the wheel; what did Mr. James do?

A. Got in the front seat alongside of me.

Q. Then what did you do?

A. Started through Arch Street and around Second.

Q. And that what happened?

A. Turning north on Second Mr. James says, "There is some man I want to see" and I stopped the machine.

Q. Then what happened?

A. Then the man came over to the car and started to talk to Mr. James.

Q. Did you know who that man was?

A. He introduced the man as Mr. Paul to me.

Q. Had you ever seen that man before?

A. No, sir.

Q. After the man was introduced to you, what happened?

A. They were talking about some women, and whisky, some parties they were on, and Mr. Paul

said something about he had an engagement down at the ferry to meet a woman and another engagement to meet another woman in Philadelphia, and he asked Frank if he would not drive him to the First National Bank and then to the ferry, that he thought he was late.

Q. Did you notice whether or not that man had anything with him?

A. He had a package.

Q. What kind of package was it?

A. It was wrapped up in brown paper, I believe it was tied with cord.

Q. How large a package?

A. I didn't take particular notice; I should judge it was about a foot square; however, I am not sure.

Q. About a foot square?

A. Yes.

Q. After Mr. Paul asked James that, what did James say?

A. He says, "All right."

Q. Then what happened?

A. Mr. James got over in the back seat and Mr. Paul got in alongside of me.

Q. Then what occurred?

A. I started for the First National Bank.

Q. How did you go?

A. North on Second and down Market, stopped on the north side of Market Street just opposite the First National Bank.

Q. On the way down from Second Street to the First National Bank, did you have any conversation with Mr. Paul?

A. No, sir.

Q. Was any conversation had with anybody in the machine on that particular ride?

A. Mr. James and Mr. Paul were still talking about these women or parties that they had been on.

Q. Now, when the machine stopped opposite the First National Bank on Market Street, what occurred?

A. Mr. Paul got out and ran across to the First National Bank.

Q. While he was gone did you and Mr. James have any conversation?

A. No, sir.

Q. How long was he gone?

A. It seems to me he wasn't gone a minute.

Q. Did you see him come out of the bank?

A. Yes, sir; there was a trolley car passing at the time, and when I saw Mr. Paul he was on the sidewalk and had a handkerchief up to his nose and waved his hand to someone.

Q. Did you notice whether or not he took the package with him into the bank?

A. No, sir, the package was alongside of me.

Q. Are you sure about that?

A. Yes, as I turned—

Q. Now, when he came back to the machine, did he say anything?

A. He said, "There goes one of the women I am to meet down at the ferry."

Q. Then what did he do?

A. He got in the machine and I started for Market Street ferry.

Q. Well, now, go on.

A. I drove in to Market Street ferry.

Q. How did you drive in to Market Street ferry?

A. Around behind the sheds.

Q. Why?

A. Well, the trolley car that carried the passenger, that had this woman on, had stopped at the end of the sheds and was waiting for another trolley car to make that turn to go into Market Street, and it

partly blocked up the way, and as I knew that automobiles went around the back, I drove in the back way; I knew passengers could get off there and go through the gate and across the river.

Q. Did you have any particular design in going down back of those sheds?

A. Any particular reason, do you mean?

Q. Yes.

A. That is the only reason.

Q. Now, on the way from the First National Bank down back of these sheds, did Mr. Paul and Mr. James have any conversation?

A. Yes, sir, they were talking over these parties and women and whisky, and they got into an argument of some kind.

Q. Was the argument heated?

A. Yes, it did get into a heated argument before the end.

Q. When you got down back of these sheds, what did you do with the machine?

A. I pulled in between two automobiles.

Q. Why did you do that?

A. Well, so that I could back and turn around and go back to the restaurant.

Q. Did you stop the machine?

A. Yes, sir.

Q. Stop the engine?

A. No, sir.

Q. What happened there?

A. I was about to light a cigarette when Mr. James hit Mr. Paul, but I did not see the blow; I heard a punch or a thump of some kind.

Q. Go on and tell us what happened there?

A. And when I turned, why, Mr. Paul, he partly turned around to Mr. James and he said, "I don't have to stand for that," and I don't know whether

he staggered back or how he got back there, but he and Mr. James started to punch one another.

Q. Did you push him back?

A. No, sir; Mr. Paul got his knees up on the seat, and he got one leg, his right leg over in the back, and his left leg was caught up on the back of the front seat.

Q. Then what happened?

A. In the back of that machine, he was trying to get his other foot over, and pressed up against my side, and for fear of getting kicked, I pushed his foot away from me, and then he managed to get it over.

Q. Were Mr. James and Mr. Paul punching each other hard?

A. I had my back to them, I could not see, but I heard them punch.

Q. Did you hear them say anything?

A. I heard Frank say something about Mr. Paul had double-crossed him over something.

Q. Did he say anything else?

A. He was using vile language. Mr. Paul was knocked to the bottom of the car and then Mr. James said that he was sorry that he had hurt him, because he was bleeding.

Q. What else?

A. And then Mr. James told me to drive to the Cooper Hospital, and I started for the Cooper Hospital.

Q. Did you then start up the machine?

A. The motor was running; I backed the car and started for Cooper Hospital.

Q. How did you go to the Cooper Hospital?

A. Out behind the sheds to Delaware Avenue, over to Penn and out Penn.

Q. On the way, as the car was going out, as you were going out Delaware Avenue to Penn, did you

hear any conversation between Mr. Paul and Mr. James?

A. They were talking as to how they were going to fix it up with the people at the hospital or the bank or somebody.

Q. Then what occurred after you got on Penn Street?

A. I was driving along, and I heard a racket behind the car, and Mr. James, he was using vile language, and when I turned he was beating Mr. Paul on the head with a heavy piece of iron.

Q. Then what occurred?

A. I turned and said, "Frank, for God's sake, you will kill that man before I get to the hospital," and Frank, he hesitated a little while and then he said, "Ray," and I looked around and he had a revolver and pointed it directly at my face; he said, "it is too late to go to the hospital, I guess I have already killed him; if I go to the hospital I will be held for murder," and he told me to drive over to Market and out Market Street.

Q. Did you do that?

A. Yes, sir, I don't know what street I drove through, because I was so frightened and nervous that I didn't know.

Q. Where did you go on Market Street?

A. Straight out Market.

Q. Did you pass any trolley cars or automobiles?

A. I don't know, I can't remember.

Q. How far did you go out Market Street?

A. As far as Twenty-first; Twenty-first Street, Federal and Marlton Avenue, they almost come together.

Q. What did you do there?

A. That was where Mr. James hollered, "Go out Marlton Avenue."

Q. Did you go out Marlton Avenue?

A. Yes, sir.

Q. How far?

A. As far as Baird Avenue.

Q. What did you do there?

A. I turned in Baird Avenue.

Q. Why?

A. There was a sign across the Marlton Pike just above Baird Avenue. Had a detour somewhere or something. They were repairing Marlton Avenue and I couldn't drive straight ahead.

Q. Did you turn the machine in Baird Avenue?

A. In Baird Avenue.

Q. On the way from Penn Street out to Baird Avenue, after the point at which you say Mr. James pointed a revolver at you, did you hear any further conversation between Mr. Paul and Mr. James?

A. I don't know, Mr. Carrow, on account of my frightened and nervous condition. There was something said, but I can't remember what it was. I know Mr. James was using very vile language.

Q. Did anything happen on Baird Avenue?

A. Yes. Just as I pulled in Baird Avenue, very much to my surprise, I heard Mr. Paul holler—it was in a low voice—"Help, help, leave me out, Frank, for God's sake, you take the money; you know what to do."

Q. What did you do when you heard that?

A. Right after he said that Mr. James was beating him on the head with this heavy iron, and I applied the brakes and stopped and said, "Frank, for God's sake, don't go any further," and then I turned and Mr. James picked up the revolver again and told me to go on, that he was damn desperate, that he would go through with it; he was in a raving fit of madness and his eyes were sticking out of his head at the time.

Q. Did you strike Mr. Paul any blows there?

A. No, sir.

Q. What is that?

A. No, sir.

Q. Then what occurred?

A. I drove on over Baird Avenue.

Q. Did James say anything further to you?

A. Mr. James was talking, but I can't remember what he said. If I am not mistaken, I think it was along there that Mr. James told me—asked me, rather, if there was a package up in front, and I told him, "Yes," and he said, "Throw it back." It was either on Baird Avenue or on Kaighn Avenue. And I threw the package back and he tore the paper off, told me to look, and showed me a lot of twenty-dollar bills, and he told me that man was runner for the Broadway Trust Company and there was about $30,000 in it.

Q. Did you notice the position Mr. Paul was in when you stopped the car on Baird Avenue?

A. I couldn't see his body, but I saw his knees sticking up in the air, and his feet were flat on the floor.

Q. His knees up, you say?

A. Yes, sir.

Q. Then what did you do after you left Baird Avenue?

A. Drove over Baird Avenue to the park driveway that leads along Cooper River and around to Kaighn Avenue and out Kaighn Avenue to Browning Road and over Browning Road to Marlton Pike, and then again out Marlton Pike.

Q. Did you and Mr. James have any conversation on the way out there?

A. He was talking to me, but I can't remember what it was.

Q. Then where did you go?

A. Straight out Marlton Pike. It was along Marlton Pike that Mr. James crawled over to the front of the car, and his left hand was covered with blood and he still had this revolver in his right hand.

Q. Did he do anything with the revolver?

A. He was in a raving fit of madness and he was pointing the revolver first at himself and then at me, and he was pointing it all around the car. I don't believe he knew what he was doing.

Q. Was the revolver discharged?

A. Yes. Mr. James turned suddenly and fired the revolver twice in the direction of Mr. Paul's face. Later on he told me that he fired through Mr. Paul's mouth, shot him in the jaw.

Q. Then what occurred?

A. He talked to me all along the pike, but I can't remember what it was about, due to my frightened and nervous condition.

Q. Where did you go then?

A. Through Ellisburg on up through Marlton, and he told me that he was going to take the back road that would cut out Medford and go through the pines to where he knew he could place the body.

Q. Had you ever been up that way before?

A. Never been up that way before in my life. I didn't know where I was.

Q. Did you go through Medford?

A. No, sir.

Q. Where did you go?

A. Around back, a back road, he said, that cut out Medford. I don't know the roads up that way.

Q. Well, just describe what you did from then on.

A. Well, we drove considerable distance through the pines, and we come to a little stream, and he

said, stop, that was the place he was going to put the body.

Q. What happened there?

A. I stopped the automobile and Mr. James got out and got hold of Mr. Paul's feet and pulled him out of the car, and he started to drag him through the woods, and he couldn't very well manage him, and he asked me to come and give him a lift, and I told him I couldn't do it, I couldn't touch the man; and he said I would have to, and he still had that revolver and I was afraid of him, and I went in and he gave me Mr. Paul's foot and I helped him to pull for a little distance, and I got sick to my stomach and dropped the foot and went out on the road.

Q. Then what happened?

A. Mr. James was in there for five minutes, I should judge, probably more, and then he come out and he had a wallet of Mr. Paul's, took some money out, put it in his pocket and started to read these things, as I was driving up the road, and tear them up and throw them out on the road.

Q. Where did you go from there?

A. We come back the same way. He was in the back of the car first tearing up things and tearing pasteboard and stuff off of the back door, threw the iron out, and in throwing the iron out he broke the windshield.

Q. Then where did you go?

A. He started to talk something about he wondered where he could leave the money, and he asked me if he could take it to the bungalow, and I told him he could if he wanted to.

Q. Did you go to the bungalow?

A. Yes, we drove to the bungalow.

Q. There what happened?

A. We stopped about a square from the bungalow and Mr. James told me to go over to see if anybody was around, and I went over and went in the bungalow and there was nobody around, and I sit down in a chair, and after a while Mr. James, he come walking in, and wanted to know, in vile language, what I was doing there, why I didn't come out and let him know. I told him I was worried.

Q. Then what happened?

A. Went upstairs with the package and he took the paper off and he called me up and he says, "Ray, I thought there was $30,000 here," he says, "but here is a slip, one of them says $35,000 and the other is $5,000." He says, "There is $20,000." He says, "If you will keep your mouth shut I will give you $20,000."

Q. Then what occurred?

A. Looked around the bungalow and he said he didn't think it was safe to leave the money there, that he would take it out and bury it somewhere. So we left the bungalow and drove around by way of Woodbury over some roads, I forget the roads, to North Woodbury, where he used the telephone; from North Woodbury to Westville, where he stopped and bought a shirt and collar. I was going in with him and he told me no, not to go in, that I was in a nervous condition, that he didn't want anyone to see me, so I stayed in the car. From there we drove on up Broadway. He said something about he was going to leave the money in his home. In driving up Broadway he looked over and said his wife was there, that it wouldn't be safe to take it in. He said if he had taken it in there he would have put it down underneath the coal. So we drove to Camden and then Mr. James said something about going to my home to change his clothes or something. We went to

my home and my wife was in the kitchen, and Frank and I was looking in the back window. He put the money in the dog box and said, "We will go and get a suit of clothes at the tailor's."

Q. Go ahead. Just tell what happened then.

A. We went to the tailor's and Frank put a coat on to hide the blood spots on his suit, put a rain coat on, and went in the tailors, and he came out and said his suit wasn't ready, wouldn't be ready for a half hour. So then he said, "We better drive up to the office and I can change my shirt and collar there." So we drove up to the office and Mr. James changed his shirt and collar.

Q. At whose office?

A. At the Eastern Telephone office. While he was changing his shirt and collar I was looking through my desk and I saw his baby hammerless revolver, and it was then that I stuck that baby hammerless revolver in my pocket.

Q. Then what occurred?

A. After we left the office we went back and got his suit. From there back to my home. When we got home, my wife had gone out; so Mr. James and I entered, took the money up in the back room, and Mr. James changed his clothes.

Q. Do anything with the money there?

A. Yes, the money was loose. It had been placed underneath the rear seat, I believe, after leaving the bungalow, and it was loose, and Mr. James, I think it was there that he told me to wrap the money up, and he asked me then if he couldn't leave the money in the house until the next day until he found a place where he could put it, and I told him no—I am ahead of my story. Down at the office Mr. James asked me if I could leave the money there in the safe and I told him positively no. Then at my

home I told him no, I didn't feel as if I wanted to leave it there, and he said, just leave it there for that night, from the fact that I didn't know Mr. Paul nobody would suspicion me, and it would be a very safe place for him to leave the money. So I told him I would if he would take the money away the next day.

Q. How long were you at your home that time?

A. Beg pardon?

Q. How long were you at your house that time?

A. Long enough for him to change his clothes, and after he changed his clothes we looked around the house for a place to put the money, all upstairs and downstairs, and finally we went down cellar and Frank looked underneath the steps, and there is a piece of tin about two feet in back of the steps that hid the first two steps. I never knew what was behind that tin, and Mr. James wanted to know what was back there, and I told him I didn't know, never had that tin off, and we took a hammer and pulled a nail out and took it off, and he said that would be a dandy place to leave it there. So it was put in there and nailed up again.

Q. Then where did you go?

A. Oh, Mr. James wrapped his clothes up downstairs, and there was a brick taken out of the yard and put in his clothes, tied up in a bundle, wrapped with tape, and from there we went out Kaighn Avenue to Cooper River bridge on Kaighn Avenue, and the side curtains and bundle of clothes was thrown over in the river.

Q. Then what happened?

A. From there we started back to Mr. James' garage. He was going to leave his car there. And in going back he said, "Ray, I don't want you to see any of your friends because you are in such a ner-

vous condition somebody will suspicion something." He said, "I know of a place in Philadelphia, the Arlington apartments, where I have been before, and we will go over there and you can get something to drink and it will help to cheer you up and straighten up your nerves."

Q. So you went to Philadelphia?

A. Mr. James put his car away, yes, sir, and we went to Philadelphia.

Q. Where did he put his car?

A. The Lippincott Motor Company.

Q. Now, did you ever make another trip back to the place where the body was, Paul's body was?

A. Yes, sir. On the 14th of October; the afternoon of the 14th.

Q. Just state the circumstances surrounding that trip?

A. I had left the office about between half-past one and two o'clock, I believe, told the stenographer that I was going out for a walk, and I walked from there to my sister's. I stayed at my sister's home—my stepmother was there—until about half-past two to quarter of three. From there I walked on out home and I entered in the back way and went to look out the front door and Mr. James was out front with his automobile, so I went out to Mr. James and he said, "Hurry up, get in." He says, "It is getting late." So I got in the automobile and he started away, and he was driving fast, I said, "What are you driving in such a hurry for?" He said, "I am going to take you up in the pines to bury Mr. Paul's body." I said, "Frank, I can't do it; my nerves won't allow me to do it." He said, "You are the only one that I can depend on, you have gone through this far with it and you have to go up in the woods and help me." I said, "Frank,

I can't go up and look at that body." He said, "You don't have to look at the body; if you will just go up there and help me to dig I will do the rest." So we were on our way then and I couldn't very well get out of it.

Q. Then what happened?

A. We drove up—I just forget how we got to Medford, but in Medford we stopped at a store and Mr. James and I went in and he bought two shovels and the rake. It was Mr. James that carried the two shovels and the rake out, and as he was walking out he told me to pay for them and I paid the bill and got in the automobile. That day Mr. James was driving.

Q. Go ahead.

A. From there we went on up to where the body was buried and Mr. James stopped the car and got out, and he went on in the woods and I was out on the road. Mr. James he hollered out, "Ray, my God, the body isn't here!" So I stopped and started to get nervous, and then after while he hollered out again, "Yes, it is here; it is all right, Ray; the body is here." So he came out and got a shovel and went back in and tried to dig, and then he came out in the road again and says, "I can't dig in there because there is too many roots," and he walked on up the road and he picked out a spot and started to dig, and told me to go get a shovel and help him dig; so I got a shovel and helped him dig the grave. Then after it was dug, why he went back in the woods and tried to get Mr. Paul's body out, and he couldn't very well get it out, and he called for me to come in and I told him no, I wouldn't go in and look at the body; and he said, "You come in, you don't have to look at the body. You come in and I will give you a foot and you take hold of his foot and pull." I

said, "I can't do it, Frank." He says, "You have to, the grave is dug." He says, "You don't have to look, hold your nerve." So I went in and I didn't look at Mr. Paul, and he handed me Mr. Paul's foot, so I helped Mr. James to pull for three or four feet, and I got sick to my stomach and went out on the road, and it was then that Mr. James says, "Well, I can't do it alone." He says, "Hell, I will get the rope out of the car and I will drag him up the road." So that is the reason why Mr. James dragged the body up the road with the automobile.

Q. Then what occurred?

A. He untied the rope and started to pull it toward the grave, pulled it over part way, over to the grave to a little embankment, and could not get the body up, and called to me again. I went over and he gave me the rope and I helped pull the body up with the rope, took hold of the rope to help pull the body up. Then I got sick at my stomach and started to spew all along the road back as far as the creek, I walked back there and Mr. James hollered back and said he had put Mr. Paul's body in the grave and it was covered up, that it was almost all the way covered up, for me to come back and help him do the rest, that he was all in. So I went back and Mr. James and I finished then covering Mr. Paul's body up.

Cross-examination.

By the Prosecutor:

Q. Mr. Schuck, how long have you known Frank James?

A. About ten years.

Q. Has your friendship been continuous during that time?

A. Well, I wouldn't say that it was.

Q. Why not?

A. Well, what do you mean by that, Mr. Wolverton, that we were out constantly?

Q. Have you been friendly with each other during the last ten years?

A. Oh, yes, sure.

Q. Have you knocked around together?

A. Yes, we have.

Q. Your secrets were his secrets, weren't they?

A. Yes, sir, we had quite a few secrets.

Q. You were very friendly with each other?

A. Yes, sir.

Q. And had confidence in each other?

A. Yes, sir.

Q. On the 5th day of October did you say to Edna Bintliff in the morning that you were going to the World's Series that afternoon?

A. I don't remember, I may have said it.

Q. Did you say it or didn't you?

A. I can't remember whether I did or not.

Q. You have remembered the conversations that you have testified to between yourself and Mr. Paul which you have just finished narrating; why can't you remember whether you told the girl that that afternoon?

A. I may have said it.

Q. Will you say whether you did or did not?

A. I can't remember whether I did or did not, because I did a good bit of kidding in the office, and I may have said it.

Q. Where did you tell your wife you had been when you returned home on Wednesday night after this crime?

A. I don't remember telling my wife.

Q. Didn't you tell her that you had been to the World's Series?

A. I may have told her that.

Q. Did you or did you not?

A. I can't remember telling her, but I may have said it.

Q. Did you tell Mary McGarvey you had gotten the money that you had at her home—

Mr. Carrow: Wait a minute, if your Honor please, don't answer that. I think, if the Court please, that the Prosecutor must be confined to the scope of the direct examination in his cross-examination. There is no testimony of that nature from this witness as yet.

The Prosecutor: If the Court please, this witness has testified that he received this money from James under circumstances which he has stated here.

Mr. Carrow: Mr. Wolverton, pardon me—I don't think you will find anything in the witness' testimony to the effect that he has received any money.

The Prosecutor: Well, I am very much mistaken then if he has not said that he took the money and hid it under his cellar steps, that he received from James.

Mr. Carrow: Yes, that is true.

The Prosecutor: Now, it is my intention to call to the attention of this witness the fact that he had stated that he received the money from the World's Series to explain the presence of the money.

Mr. Carrow: If the Court please, I think the rules of direct and cross-examination should be

strictly drawn there. The Prosecutor certainly cannot cross-examine this defendant on a question that is entirely foreign to the direct examination.

The Court. Well, I anticipate that there will be considerable difficulty in this cross-examination, and, of course, Mr. Wolverton, I am going to confine you to a cross-examination upon those matters which this witness has testified to.

The Prosecutor: I understand that.

The Court: And you will find authorities for that, which you know as well as I do, as to the limit and scope of the cross-examination of a defendant under these circumstances. This question, of course, under some circumstances, is admissible as affecting his credibility, his memory, but it is on the border line, and I think I will exclude this last question that you asked, because if I permit that, why, then we will get entirely over the line in just a little while.

The Prosecutor: Well, if the Court please, will you hear me at this time because of the fact that the question may arise often as we proceed with the examination, and rather than to argue each particular case, I would like to have in the Court's mind and also in the mind of the counsel for the defendant the basis on which I conduct the cross-examination. In the case of Disque vs. State, a Supreme Court decision by Chief Justice Beasley, reading from the syllabus, "When the defendant in a criminal trial becomes a witness in his own behalf, it is in the discretion of the Court to allow him to be cross-examined on the whole case, and the exercise of such authority

is not reviewable on error," and I had in mind that if this defendant made a statement according to the question which I just asked, in which he gave an account as to how he had received this particular money, that it was admissible for me to show that on other occasions he had given other explanations of the receiving of the money other than that which he now testifies to here in the Court today.

The Court: Well, I am going to overrule that question, Mr. Wolverton, that last question. While I am not stating that it is not within my discretion to do it, I feel that in this case, in view of the fact that all of this is virtually in evidence in statements that this defendant made to you and to Mr. Parker, that it is right for me to rule rather strictly upon what is cross-examination and what is not.

Q. Mr. Schuck, did you say to Mr. Abrams that you intended the following day to go to the World's Series?

Mr. Carrow: I object to that, your Honor.

The Court: No, that question will be allowed, Mr. Carrow. You see, these questions with reference to what this witness said are material, because on his direct examination he said that he went out merely for the purpose of going to lunch, and that there was no pre-arrangement with James regarding the subsequent acts. Now, therefore, it is in my view proper to test him out, and it is cross-examination on that point as to what he may have said with reference to the World's Series.

Mr. Carrow: If your Honor please, that is part of the State's case; that fact appears in evidence as

produced by a witness for the State, and there has been no denial of it on the part of the defense.

The Court: Oh, yes, Mr. Carrow, he has denied that there was pre-arrangement.

Mr. Carrow: Oh, on that point, yes but—

The Court: And anything that bears on that subject the Prosecutor has a right to cross-examine on. Tnat was the purpose of this question, was it not, Mr. Wolverton?

The Prosecutor: Yes.

The Court: Yes, I shall rule that this is proper cross-examination.

Mr. Carrow: May I have an exception, if the Court please?

The Court: You may have an exception.

(Exception noted for the defendant.)

(Signed and sealed accordingly.)

FRANK S. KATZENBACH, JR.,
J. (Seal)

JOHN B. KATES,
J. (Seal)

(Question repeated.)

A. I may have said that.
Q. Did you say it or did you not?

A. I may have said it; I am not sure. I am not going to say yes or no, because I am not sure, but I may have said it.

Q. Did you on your return to the office the following week state that you had been to the World's Series?

Mr. Carrow: Now, wait a minute, if the Court please, I object to that question. There is no testimony from this defendant that he ever did return to the office again.

The Court: Well, I think that that is not—

The Prosecutor: I will reframe the question.

Q. When did you return to the office after October 5th?

(Objected to.)

The Court: That is proper cross-examination; it is allowed.

(Exception noted for the defendant.)

A. I think it was on October 11th.

Q. Had you been there between October 5th and October 11th?

A. No, sir.

Q. Did you state when you returned on October 11th to Mr. McGinley or to anyone else in the office that you had been to the World's Series?

Mr. Carrow: I object, if the Court please, that does not appear in this witness' direct examination.

The Court: Well, I know it does not appear in the direct examination, but it has a bearing upon his statement as to whether this was pre-arranged, also as to whether there was at the time he went out any explanation made as to where he was going. He said he went out merely to take his lunch. Now, then, anything which bears upon that, and this question does, is in my opinion cross-examination.

Mr. Carrow: May I have an exception, if your Honor please?

The Court: You may have an exception.

(Exception noted for the defendant.)

(Signed and sealed accordingly.)

FRANK S. KATZENBACH, JR.,
J. (Seal)

JOHN B. KATES,
J. (Seal)

(Question repeated.)

A. I think that I did, but I am not sure about that.

Q. When you left—now that you have stated that you think when you returned on Monday, October 11th, that you told them you had been to the World's Series, does that refresh your mind as to whether you told the young lady stenographer when you went out on October 5th that you were going to the World's Series?

A. No, it does not.

Q. Had you been to the World's Series?

A. No, sir.

Q. Had you any intention of going there on October 5th?

A. No, sir.

Q. Had you any intention of going there on October 4th?

A. No, sir.

Q. When you went out of the office did you say where you were going?

A. I can't remember whether I did or not.

Q. Who was in the office when you left?

A. Miss Bintliff, the stenographer.

Q. You don't remember what you said to her when you went out?

A. No, sir, I do not.

Q. Will you say that you did not say that—

A. Well, why should I, Mr. Wolverton, when I am not sure?

Q. Will you say that you did not say that you were going to the World's Series?

A. No, I am not sure; I am not going to say that, because I can't remember whether I did or not.

Q. When you went out of the office, you say you met Frank James?

A. Yes.

Q. What did he say to you?

A. He asked me where I was going; I told him I was going to lunch.

Q. You remember that conversation, do you?

A. Yes.

Q. Is there any reason you could remember what Frank James said to you and not remember what you said to the young lady in the office?

A. Yes.

Q. What?

A. Because I was going to lunch.

Q. What is it?

A. Because I was going to lunch.

Q. Well, if you were not going to lunch—if you had been going to lunch when you left the office,

would you not know definitely whether you told the young lady that you were going to the World's Series or not?

A. No, I don't think so.

Q. But you remember definitely that Frank James asked you where you were going?

A. Yes.

Q. What else did you say or did he say?

A. I told him I was going to lunch, and he said, "Get in, and I will drive you around."

Q. That is very distinct in your memory?

A. As near as I can think, that is about what was said. It may have been—

Q. Did you get in?

A. Yes.

Q. Who drove the car?

A. I did.

Q. Where did you drive it?

A. Through Arch Street around up Second.

Q. Where did you meet Mr. Paul?

A. On Second Street, just above Arch.

Q. What was said by James to Paul or between them?

A. Mr. James says, "There is a man I want to see," and I stopped the automobile and this man came over and they started to talk about some women or whisky or something, and I wasn't paying very much attention, it was some of their affairs; and then Mr. Paul said something about he was going to meet a woman down at the ferry or in Philadelphia, and it was late, and he asked Mr. James to drive him down around to the First National Bank and down to the ferry.

Q. Have you any difficulty in remembering that conversation?

A. Well, I am not sure about those words, but it was something like that.

Q. Is there any reason that you can remember that better than what you may or may not have said when you left the office?

A. No, not that I know of.

Q. If your memory was so good when you reached Second Street and Arch with Mr. Paul why cannot it serve you at this time to say when you were on Third Street leaving the office whether you told the young lady you were going to the World's Series or not?

A. Well, I just don't remember; that is all.

Q. After you got Mr. Paul on Second Street, where did you go?

A. To the First National Bank.

Q. What did you do when you got there?

A. Stopped directly across from the bank on Market Street.

Q. Who told you to stop?

A. Mr. James had asked me to drive to the First National Bank.

Q. And where was Paul sitting at that time?

A. Alongside of me.

Q. Was he sitting facing the front as you drove around on Second Street and into Market, or was he facing sideways?

A. I think he was sitting sideways, facing Mr. James, and talking to him.

Q. Which way was his face?

A. Well, I can't tell; I was driving the automobile.

Q. But if he was sitting alongside of you, you would know whether he was sitting sideways facing you or with his back to you, wouldn't you?

A. Didn't I just say I thought he was sitting sideways?

Q. Yes, and was that sideways with his face toward you or his back?

A. Well, his face would be toward me.

Q. His face was toward you?

A. Yes.

Q. So that you could hear their conversation?

A. Yes, sir.

Q. Then, was it because Mr. Paul said he was going to the First National Bank that you went there, or because James told you to stop there?

A. Because Mr. Paul asked Mr. James to take him there and Mr. James asked me to drive there.

Q. And you did so?

A. Yes.

Q. How long was he in the bank?

A. I don't believe he was in there a minute.

Q. And where did he go when he came out of the bank?

A. Got in the machine and I drove on to Market Street ferry.

Q. Then what did you do?

A. Drove to Market Street ferry.

Q. Did you know he was going across the river?

A. Only that he said he had an engagement in Philadelphia with a woman; one with a woman down at the ferry, and one with a woman in Philadelphia.

Q. Was James intending to go to Philadelphia?

A. I don't know that.

Q. Didn't you hear their conversation?

A. Well, I know they was talking, but I can't remember what it was about.

Q. So far as you know, then, there was no intention on the part of James to go to Philadelphia?

A. I don't know that.

Q. Hadn't he communicated to you to go to Philadelphia?

A. I didn't hear him say.

Q. What instructions were given you when Paul came out of the bank?

A. Mr. Paul first asked Mr. James to take him to the First National Bank and then to the Market Street ferry. I don't think—I can't remember of anything being said to go down to the ferry at that time, because I knew he wanted to go to the ferry from his other—

Q. Did Mr. Paul say he wanted to go to the ferry?

A. I heard Mr. Paul say so around on 2nd Street when he first got in the car.

Q. Did he say why he wanted to go to the ferry?

A. No, sir.

Q. Was anything further said about the ferry other than what you say was said on 2nd Street when Mr. Paul said he was going to the ferry?

A. Only that he wanted to go to the First National Bank and Market Street ferry.

Q. So that when you left the First National Bank it was with the intention of taking Mr. Paul to the ferry?

A. To the ferry; yes, sir.

Q. And nothing further was said by either James or Paul?

A. Well, they were talking, but I don't know what they were talking about.

Q. I mean as to where you should go with the car?

A. No.

Q. So that in your mind Mr. Paul wanted to go to Philadelphia for some purpose?

A. Yes, sir.

Q. And you supposed that you were to drive him to the ferry?

A. Yes, sir.

Q. Were you intending to go to Philadelphia with the car?

A. No, sir.

Q. Had you heard James say anything as to whether he was going to Philadelphia with him with the car?

A. No, sir.

Q. So you say that the only thought you had in mind then was to take Mr. Paul to the ferry so that he could go across the river?

A. Yes, sir.

Q. Now, what is the regular route to the ferry?

A. Directly in to the ferry.

Q. Did you take the direct route?

A. No, sir; around the back.

Q. When you speak of around the back, what do you refer to as the back?

A. Behind Market Street sheds.

Q. Is that a regular entrance to the ferry?

A. Well, I knew that automobiles went through there at times.

Q. Was that a regular entrance to the Market Street ferry?

A. No, it is not the regular entrance.

Q. Did you see the sign that went in for parking purposes?

A. No, I did not.

Q. Did you know it was for parking purposes?

A. Yes, sir.

Q. If your only purpose, then, in driving Mr. Paul to the ferry was to deliver him as a passenger to cross the river, and the regular route was down Market Street, why did you not take that instead of going in to the parking place?

A. Mr. Paul had waved to a woman on a trolley car when he came out of the bank, and the trolley car that was carrying that passenger had stopped at the end of the sheds and waited for another trolley car to come around to go into the ferry, and it partly

blocked the way into the ferry, so instead of stopping and waiting for that car to get around, I knew that automobiles went around back, and I drove around back because I knew that a passenger could get out and go through a gate and cross the river.

Q. You had all of that in mind at that time, did you?

A. No, not at that time.

Q. Well, when did you get it in your mind?

A. Well, it come in my mind since then.

Q. Since then? Did it come in your mind on November 10th? When I took your statement at the Mt. Holly jail, did I not ask you this question: "Well, then, they can go down that way, but the regular way is down through the ferry entrance? In other words, the sheds are used for parking privileges, aren't they?" "A. There was no special reason." Did you make that answer to me?

A. I believe I did.

Q. Now, if there was no special reason for you to go back of the sheds in the parking place on November 10th when I asked you about this same circumstance, how does it come that now you have a special reason?

A. Well, at that time I hadn't thought closely over the details of the case, that is, move to move and everything that happened, although my mind was on the crime and thoughts of how serious it was, but not details of all the movements.

Q. Could you now, after this time that you have had to think, remember whether you told Edna Bintliff that you were going to the World's Series?

A. I can't say, because I don't remember that.

Q. When did it first come to your mind that there was a special reason for your going back of the parking place?

A. Since I have been up there in cell 13 I have had lots of time to think it over.

Q. This was on October 5th. This statement was taken on November 10th. Do you mean to say that that month and five days was not sufficient to have given you an opportunity to think it over?

A. Yes, it was plenty of time, but I didn't think into the details of every movement and everything that happened up to that time.

Q. When Mr. Straw talked to you on October 23d, did you have in mind then any special reason for going back into the parking place?

A. No, sir.

Q. You did not have?

A. No, sir.

Q. In fact, you denied being there, did you not?

A. Yes, sir.

Q. And then on November 10th you said you had no special reason; but today you said a trolley car was turning the corner?

A. Yes, sir; since I have had time to think it all over.

Q. The parking place where you took them to, where you said there was a doorway, only would take Mr. Paul about half way to the ferry, would it not?

A. I don't know that.

Q. What is it?

A. I don't know the distance. I know it isn't right directly up to the ferry doorway.

Q. Did you hear Mr. Greer's testimony, your witness that was called here this morning?

A. Yes.

Q. That the distance from Delaware Avenue to the ferry entrance was about 800 feet and that the doorway was only about 450 feet from Delaware Avenue; is that right?

A. Yes.

Q. That is right?

A. Yes.

Q. What reason would you have, just because a trolley car was turning the corner, then, to have gone back in the parking place and deliver Mr. Paul only a little over half way toward where he was going?

A. Well, just for the reason of not stopping the automobile and waiting for the car, I suppose.

Q. Would Mr. Paul get to the ferry any quicker by that?

A. I don't know.

Q. Was he in a hurry to get to the ferry?

A. He said he was late.

Q. Well, then, if he was late, wouldn't he have gotten to the ferry quicker by you waiting for the trolley car to turn the corner rather than take him only half way to the ferry?

A. I don't know whether he would or not.

Q. Does it seem to you that it would take longer or shorter?

A. I don't know as it would make much difference.

Q. Was the trolley car moving?

A. Which one?

Q. The one that you say was turning the corner?

A. Sure, it was turning, coming around.

Q. Then, if it was turning the corner—do you mean the corner right there at Delaware Avenue and Market?

A. Delaware Avenue and Market.

Q. How many seconds would it take a car to turn?

A. I don't know. I didn't stop to find out.

Q. The car was moving?

A. Yes, sir.

Q. And all it would have been necessary for you to have done was to have just—if you didn't want to wait for the car—to turn completely out, to have turned your car to the left and gone right around the rear of the car, couldn't you?

A. Well, I don't know about that.

Q. Where is the track that the trolley was on that was turning? (Showing witness a photograph.)

A. Coming around here.

Q. Coming around where?

A. Here is the other car that stopped that had the passenger that Mr. Paul waved to.

Q. Then the car that you refer to was coming out of that open space between the ferry shed on Market Street and Federal Street; is that right?

A. Yes, I believe it is where the Federal Street cars come around that go into that little shed.

Q. And that is a point many feet beyond the corner, is it not?

A. I don't know the distance.

Q. Well, how much of a distance is it? You can refresh your mind from the picture there.

A. I don't know the distance. I am not a good judge of distance.

Q. Well, about how far?

A. Do you mean the distance, the width of the street?

Q. No; I mean how far was this trolley car that you say was turning to go down to the ferry away from Delaware Avenue?

A. Why, it was just turning, I believe, just coming into Market Street; I am not positive.

Q. Is this point Delaware Avenue that I am pointing to?

A. This is Delaware Avenue along here.

Q. And is this where you made the turn?

A. I come in around this way, you see, and the trolley car come right into that.

Q. The trolley car that stopped you was down at this point?

A. It was coming through there, and the trolley car that passed me was stopped there, and that blocked the driveway going in.

Q. So that blocked the car going in; is that right?

A. I won't say the car was there. The car was coming through here.

Q. It hadn't got out on to the street yet?

A. I know it was coming through there, but I don't know how far.

Q. Had it gotten out on to the street?

A. It was part way, I believe, but I am not sure.

Q. Then, how could it block you if you are not sure the car was there?

A. The trolley car was moving and if I had kept on going I would have run right into it.

Q. If you didn't stop your car; you knew how to stop a car?

A. Most assuredly.

Q. And you know it isn't necessary to stop the car, is it, to let a trolley car pass?

A. It isn't necessary to stop the car?

Q. Yes. Weren't you here at Delaware Avenue when you saw this car coming out of this point down here? You were at Delaware Avenue then, weren't you?

A. I was driving along there.

Q. Now, this car was coming out of a point there to turn to go down to the ferry some fifty or sixty or a hundred feet nearer the ferry than you were, was 't not?

A. I don't know the distance.

Q. Well, I will take your estimate of the distance. What is it?

A. I don't know. I just forget the distance, it has been so long since I have been down there.

Q. Can't you tell it by looking at that picture?

A. No.

Q. Well, assume it was fifty feet and the car was moving, was it necessary for you to have stopped your car or made a turn at Delaware Avenue? In other words, could you not have reduced the speed and gone down, just hesitating long enough to let the car turn?

A. I didn't think of that stuff. I was going to the ferry. I didn't stop to think about how I was going to get down there, just so I got to the ferry.

Q. You stopped to think long enough to take a turn to take you to a spot away from the ferry rather than the nearest way toward it?

A. That doesn't take me away from it, back of the shed. A man can get out there and cross the river.

Q. And he could only go about half way to the ferry?

A. I don't know about that. I knew there was a gate back there.

Q. Mr. Schuck, how is it you can remember so distinctly today just the position of that trolley car, that it was moving and where you were, and when you were asked on November 10th you said there was no special reason for your going back there?

A. As I told you before, I didn't think of all the details about every little movement, everything that was done.

Q. Has your reason been due to the fact that you saw the seriousness of the situation and what happened back in the parking place?

A. Well, I knew the seriousness of it all the time.

Q. Now, Mr. Schuck, you made a turn directly at Delaware Avenue, did you not?

A. Yes, sir.

Q. Would it not—if you had gone on to where the car was, the distance from Delaware Avenue to where that turn is, it shows on that picture—if a car was coming around that turn, would it not have been out of your way even if you hadn't reduced your speed?

A. To go around the back?

Q. Yes.

A. It is very little out of the way.

Q. What, the car?

A. Do you mean—

Q. I say, was not that trolley car far enough away as it came around that curve to have been entirely out of your way by the time you had reached from Delaware Avenue to that point?

A. Well, I don't know about that. It would all depend on how fast I was driving.

Q. Were you driving fast?

A. I don't know whether I was or not.

Q. Did you have to slow up to turn the corner?

A. Yes.

Q. Well, then, if you could slow up to turn the corner, why didn't you slow up and go straight down and let the trolley car turn?

A. Well, I wouldn't have to stop to turn the corner, and I might have to stop for the trolley car.

Q. Is that a very unusual thing, to stop an automobile to let a trolley car turn?

A. No, only that Mr. Paul was in a hurry, as he had said, and I kept on moving to get to the ferry.

Q. Well, would it take longer for you to go into this out of the way place, or shorter if you had just slowed up and let the trolley pass and then gone right straight to the ferry?

A. I don't know about that.

Q. Do you mean to say you think you would have saved time for Mr. Paul by taking him around the parking place?

A. I just didn't want to stop, I guess. I kept on driving.

Q. And that is now your special reason for going to the parking place?

A. Yes, sir.

Q. When you got through the parking place, where did you stop?

A. Between two automobiles.

Q. Between two automobiles?

A. Yes, sir.

Q. Were there any people in them?

A. I didn't notice.

Q. Did you see anybody there at all?

A. I didn't look to see whether there was anyone.

Q. What did you do after you stopped the car?

A. Mr. James and Mr. Paul was in an argument over this woman.

Q. And what were you doing while they were talking about the women?

A. I wasn't doing anything. It was none of my affairs. I didn't know anything about their difficulties or their parties.

Q. Well, Mr. Paul, was he sitting there or had he gotten out?

A. He was sitting in the car.

Q. Had he made any effort to leave the car?

A. Not that I noticed.

Q. Then he didn't seem to be in a hurry, did he?

A. No, he didn't.

Q. Did he carry on a conversation in a general way?

A. I didn't pay very much attention to their conversation. It was something that didn't interest me in any way.

Q. What were you doing?

A. Sitting there. I was just sitting there fooling, that was all.

Q. Where was the package with the money?

A. In the front on the floor between Mr. Paul's foot and my foot.

Q. How long did they sit there and talk before anything happened?

A. I don't know the exact time. It may have been two or three or four minutes.

Q. Was it any longer than that?

A. I don't know.

Q. Was it any shorter than that?

A. I don't know. I said it was two or three or four minutes.

Q. Did you see anybody come into the parking place or out of it while you were there?

A. I don't remember. I wasn't looking.

Q. How near to this door were you?

A. I can't even tell you that. I don't remember.

Q. Don't you remember whether you drove down to the door to let Mr. Paul out?

A. No. I know I didn't drive to the door.

Q. You didn't drive to the door?

A. No, sir.

Q. Which side of the door did you stop on?

A. On the east side of the door.

Q. How far away from it?

A. I don't know the distance.

Q. Well, about how far.

A. I don't remember about how far.

Q. Don't you recollect in a general way?

A. Well, there was quite a number of automobiles along there and it may have been a distance of about six or seven or eight automobiles from the door.

Q. Then, that would probably have been a distance of thirty or forty feet from the door?

A. Well, if that would be the distance for that many automobiles.

Q. Well, then, you stopped toward Delaware Avenue a distance that it would take to park seven or eight automobiles, is that right?

A. I should judge it was seven or eight automobiles.

Q. Were those automobiles parked head into the shed or—

A. Head into the shed.

Q. So then it was the width of seven or eight automobiles?

A. Well, it may have been less and it may have been more; I am not positive about that.

Q. But that is your recollection at the present time?

A. Yes, sir.

Q. When you stopped there what way was your car headed?

A. It was facing the wall, the back of the sheds.

Q. What is it?

A. It was facing the back of the shed.

Q. Facing the ferry?

A. No, you see, I pulled in between two cars. You want to know the direction the car was facing?

Q. Yes.

A. Well, it was facing the shed, the back of the shed, the sheet iron.

Q. I see, now, then, you put it there for parking, did you?

A. I pulled in there so that I could back back and go on back.

Q. Was it necessary to have done that? In other words, couldn't you have gone in the vicinity of this door and stopped and then just made a turn into the road and come right out?

A. Well, wouldn't it be just as easy to back back into that space?

Q. Maybe we drive cars differently; I would have turned and come straight out.

A. I know, maybe you do drive them differently, but that was my idea, of backing back and getting out of there.

Q. Did you face the car into there when you got there?

A. It was facing to the back.

Q. Did you just take him there with the intention of delivering him as a passenger?

A. That is all.

Q. Why didn't you just stop your car there and let him out and turn around and come right back?

A. I don't know as there is a place down there where you can do that; there is a fence running along here, I believe, and in between that fence and [illegible]ed that wouldn't allow me to make a complete turn.

Q. Isn't there an opening in the fence?

A. Not that I know of.

Q. You are speaking of a little wire that runs along there, aren't you?

A. Yes, and a line of posts.

Q. Isn't there an opening there right at that gate?

A. I don't know.

Q. Will you say there is or is not?

A. I don't know.

Q. After you had stopped the car—were you told to stop it?

A. No, I stopped it myself.

Q. If your only purpose was to let him out, what was your idea in stopping the car?

A. Why, I would have to stop the car.

Q. To leave him out?

A. Yes.

Q. You kept the engine running?

A. The motor was running.

Q. Then, if it was your intention to just drop him, let him off, and keep going, why did you take this unusual place with the car?

A. Well, I couldn't drive up behind these automobiles in that wire fence and make a turn; I had to go in that space to have room to turn back.

Q. And you went out the same way that you came in?

A. I beg pardon?

Q. And you went out the same way that you came in?

A. The same way, yes.

Q. You remember that very distinctly?

A. Yes, surely.

Q. How is it you can remember a little detail like that, now, Mr. Schuck, and could not remember when I asked you on November 10th why you went into the parking place?

A. I already told you my reason for that.

Q. What is it?

A. I hadn't gone through the details of every move.

Q. After going through the details you don't yet remember what took place at the office?

A. No, there are some things that happened there at that time that I suppose I will never remember.

Q. Now, how long had you been there before James hit Paul?

A. I don't know the exact time.

Q. Did he say he was going to hit him before he did it?

A. No, sir.

Q. Was there anything in their conversation to indicate that either one or the other might strike blows?

A. Only that they were using rough language.

Q. What do you mean by "rough language"?

A. Well they were fighting over women.

Q. Was anything said between them to indicate that they might strike one another?

A. Yes, they were cursing one another.

Q. Anything more?

A. Something about one of them being double-crossed.

Q. Did you say anything to either of them?

A. I did not say a word; it was none of my affairs.

Q. Did either of them make threats to strike the other one?

A. Telling one another that they were going to hit one another, you mean?

Q. Yes.

A. No, not that I heard.

Q. So that the blow from James to Paul came suddenly?

A. Yes.

Q. Did it surprise you?

A. Yes, sir.

Q. What did you do?

A. I just looked.

Q. Did you move out of your seat?

A. I don't know whether I did or not.

Q. Did you get up?

A. No.

Q. Did Paul get up?

A. I don't remember.

Q. Do you mean to say that after Paul was struck you don't remember whether he got up or sat still?

A. Well, after he was struck he turned around to Mr. James.

Q. Did he get up?

A. He got up, I think with his knees on the front cushion and got one leg over in the back.

Q. He did what?

A. He got up with his knees on the front cushion and got one leg over on the back. He told—I remember him saying something like, "I don't have to stand for that," or something like that.

Q. Did you say anything to James?

A. I don't remember saying anything, I may have said something.

Q. How long did Paul sit in the seat after he had been hit before he got up and put his knees on it?

A. I don't know the time.

Q. Was it any length of time?

A. I don't remember.

Q. Did he make any effort to strike back?

A. I think he said something about he didn't have to stand for that; he said something like that; I don't—

Q. What way was Mr. Paul facing when he was struck by James?

A. I don't know, I wasn't looking.

Q. Wasn't he sitting right alongside of you?

A. Sure.

Q. How close was he to you?

A. Sitting right alongside of me.

Q. In the Ford car?

A. Yes, sir.

Q. I assume you were practically touching one another then, weren't you?

A. I don't know whether we were or not.

Q. What way were you facing?

A. Facing the front.

Q. Straight ahead?

A. I don't know.

Q. Were you looking into the iron shed?

A. I don't know.

Q. What way was Mr. Paul looking when he was struck?

A. I don't know.

Q. Can't you tell whether he was facing the same as you or whether he was sideways to you, or whether he had turned around?

A. I don't remember.

Q. Where was James sitting?

A. He was sitting in the back seat somewhere.

Q. Do you know what way he was facing?

A. No, sir.

Q. Well, you had been stopped there for three or four minutes while this conversation was going on; do you mean to tell me that you could sit in a car three or four minutes hearing a conversation and not know what way the person sitting next to you was facing at the time?

A. Well, I didn't take particular notice; their argument did not interest me.

Q. How did you know that James had hit him?

A. Only from what I heard, the noise.

Q. Did you turn around?

A. Yes, sir.

Q. When you turned around what way was Paul facing then?

A. Facing Mr. James.

Q. Had you seen him turn in his seat and face Mr. James?

A. I forget now whether I did or not.

Q. Was he standing up or setting down after he was struck?

A. He was sitting down.

Q. Then, after he was struck, he just turned in his seat?

A. Turned in his seat; yes, sir.

Q. Which way did he turn, with his face toward you, or his face the other way?

A. He had his body, like, toward me, but his face was back, to the back part of the car.

Q. In other words, he turned in a direction that brought his back to you?

A. No, his back was not to me.

Q. His face was toward you?

A. Yes.

Q. What did he say to James after he had struck him?

A. He said something about, "I don't have to stand for that," something like that.

Q. What did James do?

A. Mr. Paul got up and tried to get in the back, and he managed to get his right leg over somehow, and they were saying something, but I don't know what it was; I can't remember.

Q. What were you doing?

A. Sitting there.

Q. Did James attempt to pull Paul into the back of the car?

A. I don't know whether he did or not.

Q. Or was Paul endeavoring to get into the back of the car?

A. I think Mr. Paul was trying to get back there to hit him or something, but I am not positive about that.

Q. Did you not say in your statement to me, "I looked and Mr. James was grabbing for Mr. Paul; he had pulled him into the back of the car."

A. Mr. James told me afterward that he had pulled him in the back.

Q. Didn't you say, "I looked and Mr. James was grabbing for Mr. Paul, he had pulled him in the back

of the car and started to curse." Now, did you look or didn't you look?

A. When I first heard that noise I was lighting a cigarette, and when I looked it was after I heard the thump or punch, whatever it was.

Q. Yes, you said here in your statement to me, "I was about to light a cigarette," just as you now said, "when I heard a thump, and as I looked, Mr. James was grabbing for Mr. Paul, he had pulled him into the back of the car and started to curse." Now, did it happen as you have stated here today or as you gave me in this statement?

A. Things happened down there that I cannot remember correctly, but it was something like that.

Q. Is it true, as you said to me, that you looked?

A. Yes, I looked.

Q. Then, why did you answer my question a few minutes ago and say you did not look?

Mr. Carrow: If your Honor please, I don't think the witness made that answer to the question.

The Court: Yes, I think that the witness did; I think that Mr. Wolverton is within his rights in his cross-examination, Mr. Carrow.

A. Well, I did look after that.

Q. You did look?

A. Yes.

Q. Then, if you looked, how is it you cannot answer my question that I asked you about James striking Mr. Paul?

A. Whether I looked or not?

Q. Yes.

A. I just said that I did look.

Q. All right, now you looked.

A. I turned my head, yes, sir, after I heard that noise.

Q. Did you turn it toward Mr. Paul?

A. Yes, sir.

Q. What was he doing?

A. Facing Mr. James.

Q. Had he gotten up or was he sitting down?

A. He had turned toward Mr. James.

Q. Had he gotten up or was he sitting down?

A. He was getting up, I believe at the time.

Q. What did Mr. James do?

A. They got hold of one another in some way or something; Mr. Paul got in the back of the car somehow, I don't just remember how it happened.

Q. Was Mr. Paul pulled into the back of the car by James, or did he put his foot over, as you said a few minutes ago, and try to get into the back of the car?

A. I think he tried to get in the back.

Q. Now, in your statement to me you said that he, that is, Mr. James pulled him in the back of the car; is that a fact, or is it as you now state, that Mr. Paul tried to get into the back of the car?

A. Mr. James told me that he had endeavored to pull him back there.

Q. When did Mr. James tell you that?

A. Sometime afterward.

Q. What was the reason for him telling you that he had tried to pull him back?

A. I don't know, I didn't ask him.

Q. You were there and saw it happen—you were there and saw what happened?

A. I was there, yes, I was there.

Q. What reason would Mr. James have for telling you what he did?

A. Why, I don't know.

Q. Where was this conversation with Mr. James?

A. I just can't remember what place it was.

Q. Well how did the conversation come up, that you were talking about Mr. Paul being dragged into the back of the car?

A. I don't remember how it started.

Q. Was it before Mr. James was arrested or afterward?

A. It was before.

Q. How long before?

A. I don't remember.

Q. Was it before he had been to the Prosecutor's office on October 11th, or afterward?

A. I don't remember.

Q. You remember the fact that he had been to the Prosecutor's office and came and told you so, don't you?

A. Yes.

Q. Was it after that?

A. I think it was before.

Q. If it was before, can you remember whether it was in Philadelphia or Camden?

A. No, I do not.

Q. Well, the fact is that from October 5th to October 11th you two were in Philadelphia, weren't you?

A. Yes, sir.

Q. Now, was the conversation in Philadelphia during that time?

A. I don't remember.

Q. What was the reason for the conversation?

A. I don't know why we talked about it.

Q. Did you talk about anything else other than that one particular thing?

A. We several times talked the whole thing over.

Q. What was your reason for talking it over?

A. Why, I don't know.

Q. Where were you when you talked it over?

A. Philadelphia.

Q. What is it?

A. I think in Philadelphia once.

Q. Did you agree between yourselves what you would say?

A. No, only that—

Q. What is that?

A. Mr. James, he helped me make up a—

Q. Did you agree between yourselves what you would say—yes or no?

A. Say about what?

Q. About this crime?

A. Yes.

Q. And was it on the occasion when you were talking over what you would say about the crime, as to the excuse that would be given for it— is that when Mr. Paul said or Mr. James said that he would say that he dragged Mr. Paul into the back of the car or had pulled him back?

A. I don't remember that.

Q. What reason did Mr. James then have at that time for saying to you that he pulled Mr. Paul into the back of the car, if you were talking over the case as to what each would say—what reason was given for him saying that?

A. I don't know other than we were talking about the thing, I guess, talking about the whole case.

Q. But you remember distinctly that Mr. James told you that he pulled Mr. Paul into the back of the car?

A. Yes, he said something like that.

Q. Now, then, you did not know it as a fact, but only because Mr. James told you so, is that right?

A. Yes, sir.

Q. Then, if you did not know it as a fact, why did you say to me in answer to my question here, and

make this reply, "And as I looked, Mr. James was grabbing for Mr. Paul, he had pulled him in the back of the car and started to curse."

A. Well I remember him cursing after Mr. Paul got back with him.

Q. No, but answer my question; if you only knew that fact by Mr. James having told you that he pulled him into the back of the car, why did you in answer to my question make this statement, "And as I looked, Mr. James was grabbing for Mr. Paul, he had pulled him in the back of the car and started to curse."

A. Well, it looked very much as if he was pulling him.

Q. Well, now, did you give that information to me as a result of what Mr. James told you or as the result of what you saw when you looked?

A. I just can't remember how things happened exactly on that trip.

Q. I am not asking you just how things happened exactly; I am asking you how did you come to give me that information at that time of what happened at the ferry—was it the result of what you saw as you state here, or was it the result of what you now say was told to you by James?

A. Well, I partly saw it and Mr. James told me, too.

Q. Now, which part did you see and which part did James tell you?

A. I know that Mr. Paul was pulled back there in some way, or he was trying to get back there.

Q. Now, which was it?

A. Well, I am not positive about it.

Q. You are not positive as to whether he was pulled back or whether he tried to get back?

A. No.

Q. Was there any doubt in your mind when you made this statement to me?

A. Yes, I was not sure at that time.

Q. Did you say that you were not sure?

A. Well, I don't know whether I did or not.

Q. And then did you go and say, "When he pulled Mr. Paul in the back of the car, he said, 'God damn you, you double-crossed me.' "

A. Yes, sir, there was something like that said.

Q. You stated that, "When he pulled Mr. Paul back there." Now, does that refresh your mind as to whether you saw it or whether James told you that he pulled him back?

A. It is just as I said before, there are things happened there that I can't remember, and I remember Mr. James telling me that, too.

Q. Now, what did Mr. James tell you?

A. Something about that he pulled him, or something like that.

Q. Did you see him pull him?

A. I can't say for sure about it; everything happened so suddenly, that I can't remember every little movement like that.

Q. You were sitting alongside of Mr. Paul, weren't you?

A. Sure.

Q. A few minutes ago when I asked you what Mr. Paul did you said that you did not know whether he turned around or not; then you remembered that he turned and faced you; then I asked you what he did, and you said he got on his knees and put one leg over the back trying to get to Mr. James. Now, is that true?

A. I know he tried to get back there.

Q. Then Mr. James did not pull him back?

A. Well, I don't know whether he was helping to pull him back there or not.

Q. Your recollection now is that Mr. Paul tried to get back there himself, is that right?

A. That is more imagination probably that he was tryng to pull him back there, more than anything else.

Q. You mean imagination that Mr. Paul tried to get back?

A. No, that Mr. James was pulling him back there.

Q. Oh, that is an imagination of yours?

A. I suppose it is, nothing else.

Q. Well, then, what is the fact in the case?

A. Well, I don't know whether he was trying to get back there or whether he was pulled back or not; I am not positive about it, because things happened too quick.

Q. Well, if you don't know how he got back there, how can you say that you think Mr. Paul was trying to get back there and had put one foot over?

A. I am not positive about that.

Q. What is that?

A. I am not positive about these things, because it happened too suddenly.

Q. Yes, but you say you think it is imagination on your part, that Mr. James pulled Paul back there, and that your recollection is that Paul had his foot over, trying to get back. Now, which is the fact, your recollection, or your imagination?

A. Well, I know that Mr. Paul had a foot back there and his other foot was up on the back of the seat in some way, caught, because it pressed up against my body at one time.

Q. And was that foot over in the back before you knew how he got it there?

A. I don't know how he got it over there.

Q. He was sitting right alongside of you, Mr. Schuck?

A. Yes, I understand; but things happened so suddenly I couldn't catch on to every little movement that was made.

Q. You have said he put one foot over in the back. Did you see him put the foot over?

A. I don't remember whether I did or not. It seemed to happen in about——

Q. Is that imagination or is that a fact given to you by somebody?

A. No, nobody has given me that fact at all.

Q. What is it?

A. I said that no one had given me that fact at all.

Q. Then, it is your recollection that he did put a foot back there himself?

A. He must have put it back there himself.

Q. Did you see him do it?

A. I don't remember seeing him.

Q. What were you doing that would prevent you from seeing him do it?

A. Well, I don't know. I don't know what I was doing.

Q. He was sitting as close to you as these men are sitting to one another in the jury box?

A. You question me about every little movement that happened in about ten seconds time. How am I to think about every little movement in ten seconds time?

Q. You remember the fact that you lighted a cigarette, don't you? Is that any more important than as to how Mr. Paul got into the back of that car?

A. I told you I can remember some things but I can't remember all of them.

Q. That happened in the few seconds that you speak of, didn't it? That happened in those few seconds, did it not?

A. Yes.

Q. You remember very distinctly that you were facing the iron shed, do you not?

A. Yes, I was.

Q. You remember very distinctly that they had a conversation about double-crossing; isn't that right?

A. Yes.

Q. That happened in that few seconds, didn't it?

A. Yes.

Q. You remember very distinctly that James was sittting alongside of you—

A. James was not sitting alongside of me.

Q. I mean Paul. You remember that?

A. Yes, sure.

Q. You remember that you heard a thump?

A. Yes.

Q. You remember now that Paul turned around in the seat, do you not?

A. Well, I am not positive whether he had turned or whether—

Q. Didn't you testify a few minutes ago that he did turn and face you?

A. Well, I am not positive about some of these things.

Q. You are not positive of that?

A. Some of the things I am not positive of because it happened too suddenly.

Q. Then you are not positive of that? Is that true or not?

A. I don't know. I couldn't get wise to every little movement that went on.

Q. A few minutes ago you said Mr. Paul got up and had his knees on the seat. Did you see that?

A. I know that Mr. Paul got his foot over there somehow.

Q. You said that Mr. Paul had his knees on the seat. Did you see that?

A. He did at first, I think.

Q. Did you see it?

A. I am almost sure that he had his knees on there, but I am not positive.

Q. Did you see it?

A. Well, I can't say yes or no, because I am not positive about it.

Q. Then what prompted you to say that Mr. Paul did have his knees on the seat?

A. Well, I just have a slight recollection of it, that is all. I am not sure.

Q. Is that imagination or recollection?

A. Recollection, I believe.

Q. Is it your recollection, or what was told to you by James?

A. No, James did not tell me that, that Mr. Paul had his knees on the seat.

Q. But that is your recollection? Now, having a recollection that he was hit a thump, that he turned around, that he put his knees on the seat, how did he get into the back?

A. I don't know how he got one foot over there.

Q. Did he stand up?

A. Standing on one foot and the other was caught up on the back seat.

Q. You mean he had one foot over into the back?

A. Had his right foot over in the back.

Q. His right foot—

A. No, his left foot over in the back, and his right foot—

Q. Can you remember distinctly which foot it was that he had over?

A. It must have been his left foot, because—I am sure it was his left foot. If he was facing Mr.

James, getting back there, it must have been his left foot that was over first, because his right foot in facing him would be the one that would be caught.

Q. So that that figures it out in your mind that he had his left foot over there?

A. It must have been.

Q. How did he get it over?

A. I don't know.

Q. Didn't you say Mr. James took hold of him?

A. He did have hold of him once, yes.

Q. Did he pull him into the back?

A. I don't know whether he was pulling him or punching or what it was. He may have been pulling him.

Q. Will you say he didn't pull him into the back?

A. I think he told me in Philadelphia that he did pull him once—or in Camden, somewhere.

Q. You told me you looked and saw him pulling him into the back, didn't you?

A. Well, I wasn't positive whether he was pulling him or not. It looked that way, but I don't know whether he was or not.

(At this point a recess was taken until 1.30 P. M.)

Trial of the cause resumed at 1.30 o'clock P. M., pursuant to adjournment, in the presence of the defendant and counsel for the respective parties.

RAYMOND W. SCHUCK, resumed in cross-examination.

By Mr. Wolverton:

(The last question and answer of the witness was repeated by the stenographer.)

Q. After you heard the bang and you say he turned around and looked at you, I think we had gotten to the point where you said there was one foot in the back and one foot in the front?

A. Yes, sir.

Q. What was James doing to Paul then?

A. I don't know, I wasn't looking at Mr. James.

Q. Were you sitting in your seat?

A. Yes, sir.

Q. Didn't you arise?

A. No, sir.

Q. Didn't you turn around?

A. No, sir.

Q. Didn't you move?

A. Only when I pushed Mr. Paul's foot away from me.

Q. Do you mean to say that after this man had been hit with a hammer and was being pulled or dragged into the back that you did not turn around in your seat?

Mr. Carrow: Now, if your Honor please, I object to that question; the witness didn't testify to any such thing, to any such statement as Mr. Wolverton has asked him about there.

The Court: Well, it is cross-examination, Mr. Carrow, and the question will be allowed.

(Exception noted for the defendant.)

(Signed and sealed accordingly.)

FRANK S. KATZENBACH, JR.,
J. (Seal)

JOHN B. KATES,
J. (Seal)

Q. Had he hit him with a hammer?
A. He told me in Philadelphia or some place—
Q. Did you see it?
A. No, I did not see the blow at all.
Q. Did you see him pull him into the back?
A. I couldn't say for sure.
Q. Why didn't you arise in your seat?
A. I didn't see as I had any occasion to.
Q. After a man had been hit a thump, being pulled into the back of the car, you say there was no occasion for you to move in your seat?
A. I couldn't very well get up had I wanted to.
Q. Did you sit in your seat the same as you are sitting on the witness stand today without any more activity than you are now displaying?
A. I don't know, I don't remember.
Q. Were you smoking your cigarette while he was dragging him into the back?
A. I don't know whether I was or not.
Q. You remember lighting your cigarette?
A. I just have a slight recollection of it.
Q. Well, in your statement that I have before me, did you not say that you had lit a cigarette, and didn't you say so in your testimony before the adjournment?

Mr. Carrow: Now, if your Honor please—just wait a minute—I think if Mr. Wolverton will exam-

ine the defendant's statement he won't find that the defendant said that.

The Court: Mr. Wolverton has the right to ask that question.

Mr. Carrow: If the Court please, there is a big difference between what the defendant did say in his statement and the question Mr. Wolverton asked him, and it is liable to confuse the witness in answering the question.

The Court: Well, that is one of the purposes of cross-examination, and Mr. Wolverton is within his rights. Just read the question, Mr. Stenographer.

(Question repeated.)

The Court: Yes, I will allow that question.

(Exception noted for the defendant.)

(Signed and sealed accordingly.)

FRANK S. KATZENBACH, JR.,
J. (Seal)

JOHN B. KATES,
J. (Seal)

A. I remember something about a cigarette; I don't know whether I had lighted it or was just about to light it.

Q. Didn't you say in answer to my question in your statement which I have before me—

Mr. Carrow: Now, if the Court please, the witness doesn't know what statement he has before him.

The Prosecutor: I am going to tell him; he has already testified about it—taken on November 7th, "I was about to light a cigarette, when I heard a thump, and as I looked, Mr. James was grabbing for Mr. Paul; he had pulled him in the back of the car and started to curse." Is that true, you were lighting a cigarette?

A. Yes, sir.

Q. Did you light it?

A. I don't know whether I did or not.

Q. Were you smoking while he was striking Mr. Paul?

A. I don't remember.

Q. Did you change your position in any way in your seat after Mr. Paul was struck?

A. I don't remember changing my position, I may have, but I can't remember whether I did or not.

Q. You can remember Mr. Paul's position being changed from the front to the back, can't you?

A. Yes, sure.

Q. Why, can't you remember whether you changed your own position?

A. Well, because I don't remember.

Q. You have no distinct recollection of getting up, have you?

A. I am sure I did not get up.

Q. You are sure?

A. I couldn't very well get up, being behind the wheel.

Q. Just answer my question; you are sure you did not get up?

A. I don't believe I got up.

Q. Why not?

A. I don't know.

Q. What is it?

A. I don't know why I didn't. Why should I get up?

Q. Didn't you say that Mr. Paul had been struck suddenly a blow by Mr. James?

A. I heard a thump of some kind, a punch or something.

Q. Did you hear it or were you told that he was hit by James.

A. I heard it.

Q. You heard it?

A. Yes.

Q. Did Mr. Paul immediately get up to protect himself?

A. I just don't remember whether he did or not.

Q. When did he get up—how many times had he been hit before he did get up?

A. I don't remember that.

Q. Was he only hit once before he was dragged into the back?

A. I only heard the one thump.

Q. Would you have seen it if he had been hit more than once?

A. I suppose I would.

Q. Will you say whether he was or was not?

A. No, I won't because I am not sure.

Q. Was he hit after he was in the back?

A. Yes he was being punched in the back.

Q. What were you doing then?

A. Sitting in the front seat.

Q. Did you move?

A. I suppose I turned around.

Q. Did you turn around?

A. I think I did.

Q. Why did you turn around?

A. To see what was going on.

Q. Did you get up out of your seat?

A. No, sir.
Q. Why not?
A. Why should I get up?
Q. Mr. Paul was an elderly man, wasn't he?
A. Well, I did not think at that time there was going to be anything serious.
Q. Mr. Paul was an elderly man, wasn't he?
A. Yes, I believe he was.
Q. Frank James was a young man, wasn't he?
A. Yes, sir.
Q. You were a young man?
A. Yes, sir.
Q. You could see no reason whatever to go to the assistance of David Paul as he was being beaten in the back of that car?
A. Things happened too sudden.
Q. What is it?
A. Things happened too sudden.
Q. They didn't happen so sudden but what you knew he had been hit, did they?
A. I think they happened sudden enough.
Q. But you knew it, didn't you?
A. I heard it.
Q. You knew he was in the back being beaten, didn't you?
A. Yes, he got beaten.
Q. You were interested enough to turn around to look, weren't you?
A. Yes, I did look.
Q. Why were you not interested then to do something to stop the beating?
A. Because I did not think it was going to lead into anything serious.
Q. You mean to say that it did not impress you as being serious when David Paul was hit a blow on the head and dragged into the back?

A. Well, I did not think it was going to lead into murder; I thought it was just an ordinary—

Q. What did you think it was going to lead into?

Mr. Carrow: Now, if your Honor please, I submit that Mr. Wolverton should let the witness answer the question.

The Prosecutor: I did that.

The Court: Well, I think that the witness—

Mr. Carrow: No, he was not quite through.

The Court: Well, I will permit the witness to answer the question fully. Now, if you will just have the question read, Mr. Stenographer.

(Former question and answer of the witness read by the stenographer.)

The Court: Now, you finish your answer, Mr. Schuck.

A. I thought it was just an ordinary fight over a little thing, an argument.

Q. Had he not been hit with an iron?

A. At that time?

Q. Yes.

A. When he was in the back or in the front?

Q. Yes.

A. In the back?

Q. Yes.

A. I don't remember at the present time whether he was or not.

Q. When did you first see the iron, on the Marlton Pike?

A. I think it was on Penn Street.

Q. You never saw it until you were on Penn Street? What was he beating him with then at the ferry?

A. I don't know whether he used an iron at the ferry then or not.

Q. Well, will you say that he did or did not?

A. Well, I am not positive.

Q. Well, what makes you positive then that you did not consider it serious?

A. I just thought it was an ordinary fight between the two men, that was all about it.

Q. And you were not interested in stopping a fight between those two men?

A. No, because the fight had stopped.

Q. Was David Paul down in the car when he was being beaten?

A. He was down in the bottom of the car.

Q. And James on top of him?

A. Sitting on the seat.

Q. And you didn't think that was a situation that called for you to interfere?

A. Well, they started to talk about going to the hospital. Mr. James said that the——

Q. You say you didn't know he had been hit with an iron. Did you know he had been hit with a hammer?

A. Mr. James told me afterwards he was hit with a hammer.

Q. I am now reading from the statement of November 6th, taken by Mr. Parker, which was introduced in evidence yesterday. Is it true that you said: "I pulled out a cigarette to light it; I heard a bang; I turned and this Frank had hit this man on the head with a hammer and pulled him in the back of the car and kept beating him." Is that

true, the statement you made to Mr. Parker when you made that answer?

A. I guess I made that statement.

Q. Then you did know when you made that statement on November 6th, that James had hit him with a hammer?

A. Only from what Mr. James told me.

Q. Why did you, then, use this language: "And I turned and this Frank had hit this man on the head with a hammer"?

A. Well, Mr. James told me that he had used the hammer.

Q. Did he tell you that you had turned?

A. No, he did not.

Q. Had you turned?

A. I believe I did.

Q. When you turned, did you see that he had been hit with a hammer?

A. No, I did not.

Q. Then your statement should have read: "I turned and afterwards Frank James told me he had hit him with a hammer." Is that the way it should have read?

A. I think in that statement I did say that he had told me he hit him with a hammer.

Q. I am reading your exact language here as introduced in evidence yesterday.

Mr. Carrow: I think further on you will find the witness is correct.

The Prosecutor: You find it and show it to me.

Q. Then in the statement you made to me of November 10th, didn't you answer this question: "In the meantime he had struck him several times,

hadn't he? 'A. You see, after he got him in back there I turned around and looked and I saw him bleeding.'" Is that right?

A. I did see him bleeding.

Q. You didn't consider it serious then?

A. Well, they were talking about how bad he was hurt. Frank said he was sorry, that he had hurt him pretty bad, or something like that, and he was sorry for it.

Q. And it didn't even strike you as being serious when they talked about the hospital?

A. Well, it was serious enough for attention.

Q. But not—— serious enough for attention by whom?

A. I don't know.

Q. You mean by a physician?

A. I suppose—it was——

Q. If it was serious enough for attention by a physician, why wasn't it serious enough for you to take a hand?

A. I am not a physician.

Q. Would there have been any need for a physician if you had taken a hand?

A. I don't know.

Q. Couldn't you have stopped it if you had wished to?

A. I suppose, yes.

Q. Why did you not wish to?

A. I didn't think the man was hurt that bad.

Q. Did you want to see him hurt at all?

A. No, I wouldn't want to see anyone hurt.

Q. Why didn't you stop Frank James from hurting him then?

A. I thought the request to go to the hospital was sufficient.

Q. He was already hurt then, wasn't he?

A. Yes, sir.

Q. Why didn't you stop him before his condition was such that you found it necessary to talk about going to the hospital?

A. He asked me to drive to the hospital, and that is what I started for.

Q. Why didn't you take a hand before it was necessary to go to a hospital?

A. Because it happened too suddenly.

Q. Do you mean to say that it happened so suddenly, the striking of this man, he turning around first in his seat, and then kneeling in the seat, and finally getting one leg into the back, and finally the other leg into the back, and Frank James getting him on the floor of the car and continuing to beat him, that that was all so sudden that you, sitting in the front seat, couldn't raise a hand to help?

A. Happened very sudden; few seconds; everything.

Q. Do you mean to say you couldn't have helped if you had wanted to?

A. I suppose, yes. I suppose if there had been a fight on the street and they had been fighting there a number of minutes it would have been different; but it happened in a few seconds.

Q. Is there any doubt in your mind that you could have stopped it if you had wanted to?

A. I suppose I could.

Q. Why didn't you?

A. Well, it happened to sudden.

Q. To sudden to stop it?

A. Why, sure.

Q. To sudden to take any part in it?

A. Sure.

Q. So it happened as you have described, and you say that was too quick for you to have taken any hand?

A. Yes, it happened very sudden.

Q. Why didn't you move out of your seat?

A. Why should I move out of my seat. I can't see any reason why I should.

Q. You couldn't see any reason? Did you start the car?

A. The motor was running.

Q. Did you go and call for help?

A. No, sir.

Q. Could you have done so?

A. I could, yes.

Q. Why didn't you?

A. Because I intended to go to the hospital after he told me.

Q. While he was beating him, before anything was said about the hospital?

A. It happened too sudden. I didn't think of it.

Q. To sudden for what?

A. It happened so sudden that I didn't think of it.

Q. Didn't think of what?

A. Hollering for help.

Q. Did it happen so suddenly that you didn't think of helping?

A. Yes, sir.

Q. Then why did you say just a moment ago that you supposed you could have helped if you had wanted to?

A. Well, I suppose I could if I had thought of it.

Q. And a minute or two ago you said: "Why was it necessary for me to do it?" Do you mean that, or that you didn't think of it, or that you did think of it and didn't think it was necessary?

A. I didn't think of it at the time.

Q. Didn't you say a minute ago that you didn't think it was necessary because you didn't think it was serious?

A. I did, yes.

Q. Now, if you didn't think it was serious enough to have helped, how is it you didn't have any thought about helping or crying out for help?

A. Because I was asked to go to the hospital.

Q. Didn't you have any thought previous to that?

A. I don't believe so. I don't remember.

Q. You did think it wasn't serious enough to help, though, didn't you?

A. Beg pardon?

Q. Did you not say that you thought it was not serious enough to require your help?

Mr. Carrow: I think the witness has answered that question a dozen times.

The Prosecutor: He has given a different answer each time.

Mr. Carrow: If the Prosecutor is permitted to keep asking the same questions over and over again, this examination will never end.

The Court: I think it will end, Mr. Carrow. Of course, that is a matter that rests with the good judgment of the Prosecutor. All these questions are different one from the other and I think it is proper cross-examination.

(Question repeated.)

A. Yes, I did at that time.

Q. Have you changed your mind about it since?

A. Things happened too sudden down there.

Q. It didn't happen too sudden for you to put his foot in the back, did it?

A. I pushed it away from me for fear of getting kicked.

Q. Why did you do that? What is it?

A. I pushed it away from me for fear of being kicked.

Q. You were afraid of your own personal safety, then; were you?

A. Why, sure.

Q. Would it have bothered you more to have received a kick with that foot than it was hurting Mr. Paul to be beaten the way he was then, by Mr. James?

A. Well, I didn't think of that at that time.

Q. If you had gotten out of the car you wouldn't have been kicked, would you?

A. No.

Q. Was Mr. Paul trying to kick you?

A. I don't believe he was.

Q. Well, was he or wasn't he?

A. Well, I don't believe he was.

Q. What made you think you might get kicked, then?

A. Because at one time, I suppose he was trying to get his foot over, and it came up against the side of my body.

Q. Why was he trying to get his foot over?

A. I don't know.

Q. Why did you help him put it over?

A. I didn't help him put it over, I pushed it away from me.

Q. Why?

A. So I wouldn't get kicked.

Q. Was that the same time Frank James was pulling him over?

A. I suppose he was, but I am not sure.

Q. Then at the time you pushed the foot over, he only had one foot in the back then, hadn't he?

A. Yes, sir.

Q. And do you say that James was pulling him back then?

A. I am not positive whether he was or not.

Q. What?

A. I am not positive whether he was pulling him then or not.

Q. Didn't you state in your statement to me that you had lit a cigarette—— "I was about to light a cigarette when I heard a thump, and as I looked, Mr. James was grabbing for Mr. Paul, he had pulled him in the back of the car and started to curse." Was it while Mr. James was pulling him into the back of the car that you were afraid of being kicked and pushed his foot into the back?

A. I was afraid of being kicked.

Q. Where was the other foot at the time?

A. Over in the back.

Q. What made you think you might be kicked?

A. Because it came up against my side at one time and I thought probably with him trying to get it over he would kick me accidently.

Q. You thought he might kick you accidently?

A. Sure.

Q. You didn't think it necessary to get out of the car to prevent getting kicked?

A. No.

Q. Why didn't you?

A. Things happened too suddenly.

Q. It wasn't too sudden for you to think you might be kicked, though, was it?

A. No.

Q. Now, you said that the reason you threw the foot back was because you were afraid you were going to be kicked, is that right?

A. Yes.

Q. That is true?

A. As near as I can think of.

Q. I read now from the statement of November 10th, which was introduced in evidence yesterday: "Q. Well, what I wasn't quite clear about is, you spoke about James pulling him into the back seat and you said that you lifted his leg over into the back. What I am trying to get is, how did it happen that if James struck this blow, that he wanted to get him into the back seat, and how did it happen, if you wanted to help him——" And then you interrupted me with this answer: "Why, you see, his foot seemed to be caught alongside of me. I didn't do no lifting in the back. It was just his foot was caught there. After he hit him he grabbed hold of him and pulled him back there." Then I asked this question: "What reason did you have for trying to——" And then you interrupted me with this answer: "On account of its being near me. I don't know. No special reason at all."

A. Mr. Wolverton——

Q. Then further on, a question that I put to you: "What reason did you have for helping him into the back?" "A. Well, for no special reason at all, only his foot was right near me and it seemed to be caught." Now, was it because you had no special reason, as you stated in that statement, or because you thought you were going to be kicked?

A. In that statement didn't I ask you if I thought of anything later that I could correct it in my statement?

Q. Yes, I think you did, Mr. Schuck.

A. Then why don't you grant me that?

Q. Then you want the privilege of correcting that part, do you?

A. Well, I have thought of it since.

Q. Did you make any statement to me at any time where you didn't ask for the privilege of correcting it?

A. I don't know.

Q. In the statement that Mr. Straw took from you on October 23rd at my office, Saturday evening, do you remember that distinctly?

A. I remember being there.

Q. And in that statement you said you wanted to tell the truth, did you not?

A. I believe I did at that time.

Q. Did you tell the truth in it?

A. I did not.

Q. And did you want that corrected?

A. About two-thirds of that statement was the truth.

Q. About two-thirds? Do you want to limit it to two-thirds?

A. Well, I don't know about that; I am only guessing.

Q. Is there any part of it true?

A. Yes, sir.

Q. What part?

A. The part where I was in Philadelphia during the evenings.

Q. Where?

A. With a friend of mine.

Q. What is that?

A. With a friend.

Q. What friend?

Q. Was any part of it true?

A. Yes, sir.

Q. What part?

A. The part where I was in Philadelphia during the evening.

Q. Where?

A. At a friend of mine.
Q. What is that?
A. With a friend.
Q. What friend?
A. A friend of mine.
Q. What friend?
A. A friend of mine.
Q. Would you rather not give the name?
A. I would rather not give the name.
Q. Is the emphasis on friend or friends?
A. Well, I was with friends, too.
Q. You were with friends, too?
A. Yes.
Q. Now, when did you first make up your mind that you wanted to correct that statement so far as the kicking in your side is concerned?
A. Since I was placed under arrest.
Q. Were you under arrest on the 10th of November, under a charge of murder, when you made that statement?
A. Yes, but I hadn't thought of it by then.
Q. When did you start to think about it?
A. Sometime after that.
Q. So that when I asked you the reason that you had for lifting the leg of Mr. Paul over into the back, when you said, "On account of it being near me" that was true, wasn't it?
A. The foot being near me?
Q. Yes, was that true?
A. Yes, sir.
Q. So you had thought about it up to that point, that it was near you?
A. Yes, sir.
Q. Then you went on to say, "I don't know, no special reason at all." Now, is that where you stopped thinking?

A. Yes, I didn't think of the rest of it then.

Q. How did you happen to think that it was near you without thinking that it was going to kick you when you made that statement?

A. Well, I didn't think of every little detail, of every little movement that was made.

Q. Well, you remembered the fact that it was near you?

A. Yes.

Q. But the important fact that it was about to kick you you did not remember, is that right?

A. Yes.

Q. How did you happen to remember the small detail and not the more important one?

A. Because I have had more time to think into these things.

Q. Was there anything in your conduct in that car to make you think that Paul might kick you?

A. In my conduct?

Q. Yes.

A. No, I was sitting there behind the wheel.

Q. You were not moving, were you?

A. I don't believe so.

Q. And yet you thought he was going to kick you?

A. Yes, because it had pressed up against me at one time.

Q. If it was caught, how could he kick you?

A. Well, having one foot over and the other up on the top, it seemed to be caught in a sort of way that he could not get it over.

Q. Well, if it was caught so that he could not get it over, what made you think that he would kick you?

A. Well, it could be caught so he could not put it down, yet it would not be caught so he couldn't push it over.

Q. Well, just how was it caught, so that he could move it one way and not the other?

A. Why, it was the position of his foot on the cushion; he couldn't get it down.

Q. Now, just show me the position of his foot on the cushion, that he couldn't——

A. It was up on the top like that (indicating).

Q. Is that the way it was?

A. I don't know, but in his position, and monkeying there with Frank, I suppose he couldn't get it down, but he could get it over this way along the top.

Q. Show me how you would kick if it was in that position.

A. How I would kick?

Q. Yes, put it up there and show me the motion that it would kick?

A. This, toward me (indicating).

Q. Is that what you were afraid of?

A. Yes, sure.

Q. So it was over the back of the seat in that position so that the toe was hooked over the back like that?

A. Yes, sir.

Q. And about how far from you?

A. I don't know.

Q. Well now, was it the length of the seat or part of the seat or a few inches or what?

A. Well, I don't know, I didn't measure it.

Q. Mr. Schuck, as you sit on that stand today, and as you testify that this was the way you say it was, you have a picture of it before you right this minute —where was the foot?

A. Up on top of the cushion.

Q. How far away from you?

A. I don't know.

Q. You can see that foot on top of the seat now, in your mind, can't you?

A. Just about.

Q. How far away is it from you as you are sitting in the car?

A. Well, I should give a guess, about six inches.

Q. About six inches; so then what you feared was that he might move his foot that six inches as it was caught on the top so that he couldn't get it over, and might kick you, is that right?

A. Yes, sir.

Q. Didn't you say a few minutes ago that it had hit your side?

A. It was up against my side at first, before it came back that way.

Q. Then it was first against your side and then he moved it six inches away, is that right?

A. Yes, sir.

Q. And then it was after he had moved it six inches away that you were afraid he might kick you?

A. Might bring it back, yes, in trying to get his foot over.

Q. Had he hurt you with it when it was next to you?

A. No, not at that time.

Q. What made you think then that he might hurt you the next time?

A. Well, if the man gave a sudden jerk with his foot, it would hurt.

Q. If the effort was to get it into the back, how could you fear that it would go to the side and kick you in trying to get it over? Was he engaged in trying to protect himself from James or you?

A. From James, I suppose, I don't know what was going on there in the back; I know——

Q. Did you feel that he might in taking care of himself with James at the same time use his foot to take care of himself with you?

A. I didn't know, only that he was trying to get his foot over there, I know that.

Q. And do you know that you pushed it over?

A. I pushed it away from me, and then he got it over.

Q. Did you do that to help Paul or to help James?

A. I did that more to protect myself from being kicked.

Q. Then you were so disinterested that you were not either going to help James or Paul, is that right?

A. I didn't think of anything like that at the time.

Q. I say, you were so disinterested that you didn't want to help either of them, is that right?

A. I wasn't helping either, no.

Q. Just taking care of yourself?

A. That is all.

Q. And in taking care of yourself you remained immovable in your seat with the exception of pushing his foot over, is that all you did?

A. That is all I can think of, yes.

Q. James says you pushed him into the back.

A. I don't car what Mr. James says.

Q. You pushed his foot, though, didn't you?

A. Pushed it away from me.

Q. You pushed his foot over, didn't you?

A. I pushed it away from me, I believe.

Q. Did you push it along the seat?

A. I don't remember.

Q. Did you not say in your statement to me that you lifted it into the back?

Mr. Carrow: If your Honor please, now, this witness has answered twenty times that he did not do that.

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The Court: Mr. Carrow, this is on a very crucial part of course, as you know, of this case, and while the witness has given perhaps answers which seem to be similar, the questions asked by Mr. Wolverton, are different, and I think that Mr. Wolverton, as I have said before, is within his rights in this cross-examination.

Mr. Carrow: May I have an exception?

The Court: You may have an exception.

(Exception noted for the defendant.)

(Signed and sealed accordingly.)

FRANK S. KATZENBACH, JR.,
J. (Seal)

JOHN B. KATES,
J. (Seal)

Q. Now, did you push his foot over or did you push it away?

A. I don't remember.

Q. Didn't you say a moment ago——

A. I can't say for sure whether I pushed it in the back or pushed it away from me. I know I was in fear of being kicked, and I got it away from me in some way.

Q. Was this question asked you on November 10th: "What reason did you have for helping him into the back? Well, for no special reason at all." Now, were you helping him into the back or not?

Mr. Carrow: Now, if your Honor please, I think that Mr. Wolverton can be more specific in reading those statements. Perhaps the statement made on

November 10th, the witness might confuse with some other statement that he has made; I think Mr. Wolverton should inform the witness to whom he was speaking at that particular time, who put the question to him.

The Court: I think the witness knows, Mr. Carrow, to whom he was speaking at the time.

By the Court:

Q. Do you know to whom you were speaking on November 10th, Mr. Schuck?

A. I remember Mr. Wolverton being there and Mr. Berry, but I don't know whether there was anyone else or not.

The Court: I think the witness understands.

The Prosecutor: So that there will be no misunderstanding, when I refer to the statement of November 10th I refer to the one that has already been introduced in evidence yesterday.

Q. Now, you say you are not quite sure whether you helped the foot into the back or whether you pushed it to the side?

A. No, I can't remember.

Q. Can you remember——

A. I know that I got the foot away from me.

Q. How did the foot get into the back?

A. I suppose by Mr. Paul pulling it over.

Q. Now, you think it got in there by him pulling it over or by you pushing it over?

A. I don't think that I pushed it over; I think he lifted it over himself or pulled it over himself.

Q. Did you see the foot go over?

A. I can't say that I did.

Q. How soon after the foot went over did you see Paul in the bottom of the car?

A. I don't know, a minute or more, I suppose.

Q. What?

A. Probably a minute or more.

Q. What was James doing to him?

A. They were fighting in the back; I was not looking at that time.

Q. Was Paul on his back or on his face?

A. On his back or on his face?

Q. Yes.

A. I don't know what position he was in then.

Q. Didn't you turn around and look?

A. I think I did, once.

Q. What position was he in then?

A. At that time he was sitting on the floor and when I looked I believe he was bleeding from the nose or mouth.

Q. You did not think it necessary to come to his assistance then?

A. Well, Frank had talked to him then about he was sorry he hit him, said he would take him to the hospital.

Q. Well, the time that he was being beaten that brought the blood from his nose and his mouth, did you think it necessary to help?

A. Well, that happened in about ten seconds time; it happened too suddenly.

Q. What, the foot caught and you kicked in the seat?

A. Yes, it all happened very suddenly.

Q. The foot moved to the side, the foot getting over——

A. Yes, it happened very suddenly.

Q. All in ten seconds?

A. Well, it might have been a little more.

Q. Didn't you say he was there about a minute before you turned around?

A. That was before he hit the blow?

Q. Yes.

A. Yes, before the first thump, you mean?

Q. Yes.

A. Yes.

Q. Then James, without any assistance from you, in ten seconds struck this man, he got up, kneeled in the seat, he pulled him over, dragged him in, the man resisting, one foot over, one foot caught, you moved the foot to either one side or the other, and James got him over, got him down on his back in the car, had the blood running from his nose and his mouth in ten seconds?

A. I don't say exactly ten seconds.

Q. Well, what?

A. It seemed to be about that long; it might have been longer, I don't know; it happened very suddenly.

Q. And if James had time to do all that in that short space of time, how is it you didn't have time to turn around?

A. Well, I don't remember half the stuff that took place down there.

Q. How is it if he had time enough to do all that you didn't have time enough to think what to do?

A. For the simple reason that I did not think it was going to be so serious.

Q. Was it the idea to get the money without it being so serious?

A. To get the money? I did not know at that time there was any money there.

Q. Where was the package then?

A. The package was up front.

Q. With you?

A. Yes, alongside of my foot.

Q. When Paul was in the seat, or in the bottom of the car where was his head?

A. I think he was sitting up when I noticed his nose or mouth bleeding.

Q. What did you say when he said to take him to the hospital?

A. I don't remember saying anything.

Q. Did you start your car then?

A. Frank told me to back back and take him to the hospital.

Q. Would you have been standing there longer if Frank had not told you to go to the hospital?

A. I don't know whether I would or not.

Q. Was he the only one that you were taking directions from?

A. Yes, sir, at that time.

Q. At that time you did not use your own head a bit?

A. No.

Q. Neither to go to the assistance of Paul nor to call for any help?

A. No, sir.

Q. And the only time you used your head was to keep Paul's foot——

A. That is all.

Q. From kicking you, for your own protection?

A. That is all.

Q. What is that?

A. That is all.

Q. You sat immovably until James told you to move on to the hospital?

A. To the hospital.

Q. Who fixed up the story what would be told at hospital?

A. Between both of them, I believe.

Q. What?

A. I think that was made up between both of them.

Q. Did you hear it made up?

A. I can't say that I did.

Q. If it had been made up between them in that car you would have heard it, wouldn't you?

A. I suppose so.

Q. And then if you did not hear it it was not made up in that car, was it?

A. I don't know.

Q. Can you say whether it was or was not?

A. I don't know.

Q. Why don't you know?

A. Well, I don't know.

Q. When did you first hear about the story that would be told at the hospital?

A. I think it was when I had started for the hospital.

Q. Well, did you hear it then, or was this something that was told to you by James afterwards when you and he were talking the case over?

A. Mr. James told me to take him to the hospital.

Q. Yes.

A. And I took the car and started for the hospital.

Q. Did you hear what story would be told at the hospital?

A. On the way out they were—Mr. Paul said something about to say that he was held up by someone and they were trying to fix it up in some way. I didn't pay any attention.

Q. You heard them trying to fix it up?

A. I heard them trying to fix it up in some way.

Q. Why did you have a hesitancy a minute ago in saying whether you heard it or did not hear it?

A. I am telling you now that I did hear it.

Q. That you did hear it?

A. Yes.

Q. That isn't one of the things that you and James talked over afterwards that you remember either by imagination or by being told, is it?

A. I think that happened down there, that I heard it down there.

Q. In other words, this morning you told me that you didn't remember about him going to kick you, that that had come to you since, after having talked it over with James. Now, did this come to you after talking it over with James, or do you have a distinct recollection of it?

A. Well, I don't remember whether I put that in that statement or not.

Q. Do you remember it as a fact now, that you heard; or a fact that you were told by James?

A. Some things have come into my mind since that I didn't put in that statement.

Q. Did you hear that said in that car or not?

A. About taking Mr. Paul to the hospital?

Q. Yes.

A. I did hear it in the car.

Q. You heard that, and you heard that before you left the parking place at the ferry, didn't you?

A. I don't know whether it was before—yes, it was before. Just before I started. He said, "Take him to the hospital."

Q. Did you start immediately?

A. Yes, sir.

Q. Did you say anything in reply to "Take him to the hospital"?

A. No.

Q. What did Paul say?

A. They were talking, but I forget what they were talking about.

Q. What did Paul say?

A. I don't just remember.

Q. Had he said anything at the time you left the ferry?

A. He was saying something.

Q. What?

A. I don't remember.

Q. Was it about going to the hospital?

A. I think it was, yes.

Q. Was it about what story they would tell when they got to the hospital?

A. They were trying to fix it up about Mr. Paul was held up by somebody and we came along and picked him up, or something like that.

Q. That was before you got away from the ferry?

A. That was after we left, I think.

Q. Did they talk about the story to be told at the ferry?

A. No, I think it was after we were started that that was told.

Q. Who brought the subject up?

A. Mr. James and Mr. Paul were talkng that over.

Q. Then there was nothing said by Mr. Paul at the ferry from the time he was hit on the head with that blow, was there?

A. Yes. Didn't I say that they were talking?

Q. What?

A. Didn't I just say that they were talking?

Q. What were they talking about?

A. Well, I told you I didn't know, outside of going to the hospital.

Q. You could hear them talking? I say, you could hear them talking?

A. Yes.

Q. You were in the front seat and they were immediately back of you in this Ford car. How many inches away do you suppose they were from you?

A. I don't know. I didn't measure it.

Q. Well, you have an idea, haven't you?

A. Well, the distance it would be in a Ford car; and I don't know the exact distance.

Q. Which is very slight, is it not?

A. It is very slight.

Q. You could hear them talking, could you?

A. Yes.

Q. What were they saying?

A. They were going to fix it up in some way at the hospital.

Q. What was Paul saying?

A. He said something to Frank about telling them that he was held up down at the ferry by someone and we were to take him to the hospital, we came along and picked him up and took him to the hospital.

Q. What caused Paul to say what story would be told at the hospital?

A. I don't know.

Q. Who suggested going to the hospital?

A. Mr. James or Mr. Paul, one of them. I am not sure.

Q. Didn't Mr. Paul ask to be taken to the hospital, and then say, "I will say that I was held up and you fellows found me"?

A. There was something like that said.

Q. And isn't that the reason James said, "Take him to the hospital."

A. I don't remember that.

Q. What?

A. I don't remember.

Q. Will you say it didn't happen that way?

A. I don't remember that.

Q. You have a distinct recollection that he said, "Take him to the hospital"?

A. There was something like that said.

Q. You have a distinct recollection that it was necessary to fix up a story to be told at the hospital, haven't you?

A. Yes.

Q. You know you couldn't take him to the hospital without telling some story, don't you?

A. They were fixing that up.

Q. And that was fixed up before it was said, "Take him to the hospital," wasn't it?

A. I think after.

Q. What reason would there be for taking him to the hospital under the circumstances of which this man was held up unless some plausible excuse could be given for it before you went there?

A. I don't know.

Q. Did Paul ask to be taken to the hospital?

A. Either Mr. Paul or Mr. James spoke about it.

Q. Which one?

A. I am not sure.

Q. Can you not think? After this lapse of time from October 5th, haven't you been able to fix in your mind who said first, "Go to the hospital"?

A. I don't remember.

Q. Have you thought about it since?

A. I have been trying to think the whole thing over to get it correct, yes.

Q. You can't remember which one said, "Take Paul to the hospital," or "Go to the hospital"?

A. No.

Q. What did Paul say when James said, "Take him to the hospital"?

A. They were talking, but I don't know what was said.

Q. Were they talking while you were still at the ferry?

A. Were they talking while we were at the ferry?
Q. Yes.
A. During the fight, do you mean?

Mr. Carrow: That question is rather confusing to the witness. I think Mr. Wolverton should state when he means, what particular conversation he wants to know about from this witness, whether it was before or after the blow was struck.

The Prosecutor: I will make it more definite if counsel prefers.

Q. After he had been struck and was in the bottom of the car and you had looked around and seen the blood running out of his face, was Paul talking then?
A. I am not positive.
Q. Who said hospital, Paul or James, at that point?
A. I think it was Mr. James.
Q. You think it was? After Mr. James said that, did you hear Paul say anything then and there?
A. They were talking about how to fix it up. That is all I can remember about it.
Q. Before you left the ferry?
A. After.
Q. Did they say anything at the ferry about what would be said at the hospital?
A. I don't remember.
Q. What did you do after James said, "Go to the hospital"?
A. Started for the hospital.
Q. What way did you go?
A. Up to Delaware Avenue and over Delaware Avenue.

Q. Why didn't you go out Market Street?

A. Because, if I am not mistaken, one of them said they wanted time to talk it over.

Q. Wanted time for what?

A. To talk it over before they got to the hospital.

Q. Who said it?

A. It was Mr. James, I believe.

Q. Told you to go to the hospital?

A. Yes, sir.

Q. Did you think it necessary to go to the hospital?

A. I didn't know how bad Mr. Paul was hurt.

Q. If you didn't know how bad he was hurt and saw the blood running out of his nose and his mouth, why didn't you go straight to the hospital?

A. I was following Mr. James' instructions.

Q. Why didn't you use your own mind and go to the hospital?

A. I don't know why I didn't.

Q. You don't know why you didn't?

A. No.

Q. You knew the shortest route to the hospital, didn't you Schuck?

A. Yes, sure.

Q. What was the shortest route?

A. Out Market Street.

Q. Why didn't you go?

A. Because they wanted time to talk it over.

Q. Who did?

A. Mr. Paul and Mr. James.

Q. What was there to be talked over when a man was in that condition and James had told you to go to the hospital?

A. Well, they wanted to talk it up, frame it up, about something about Mr. Paul was held up or something like that.

Q. How do you know they did?

A. I heard them talking about it.

Q. Then they did talk about what story they would tell before they got to Delaware Avenue, didn't they?

A. I told you it was along there, yes, somewhere.

Q. Didn't you say it was on Penn Street?

A. They were talking all along there.

Q. Then they did talk at the ferry about what story would be told when they got to the hospital?

A. It was after we left, started to leave for the hospital.

Q. But you hadn't reached Delaware Avenue yet, had you?

A. I don't know whether I had been on Delaware Avenue then or not.

Q. Well, if you had reached Delaware Avenue before anybody said anything about taking time to fix it up, you would have gone right straight out Market Street to the hospital, wouldn't you?

A. Yes.

Q. Then the fact you didn't go right straight out Market Street was because when you reached Delaware Avenue you had heard them talking about fixing it up, hadn't you?

A. Yes.

Q. Then it is true that before you left the ferry parking place they talked about how they would fix it up?

A. Yes.

Q. What did each of them say?

A. Oh, something about Mr. Paul was held up by somebody and we came along and picked him up and took him to the hospital.

Q. That is what you heard them say before you reached Delaware Avenue?

A. I believe it was there.

Q. That was the story that was to be told? If it is true that James told you to go to the hospital, if the shortest route was out Market Street to the hospital, and before you reached Delaware Avenue they had agreed on the story that should be told, why didn't you go straight to the hospital?

A. They hadn't yet agreed on the whole story.

Q. What do you mean, they hadn't yet agreed on the whole story?

A. Well, they were still talking about it.

Q. What else did they agree to afterwards?

A. I don't remember, but they were still talking about it.

Q. Was there anything that they did agree to afterwards?

A. I don't remember.

Q. Was there anything added to the story afterwards?

A. They were talking. They were adding more stuff to it, but I don't know what it was.

Q. What did they add to it?

A. I don't know. I was driving.

Q. Then how do you know they were adding anything to it?

A. Because they were talking.

Q. If you didn't hear what they were talking about, how do you know they were adding to the story?

A. Well, I judge they were.

Q. What made you judge it?

A. Because they wanted to get things straightened up.

Q. How do you know they did?

A. I heard them say so.

Q. What did they say?

A. I don't remember.

Q. Then how do you know they wanted to get it straightened up?

A. Only that I heard them talking about it.

Q. What did you hear them say?

A. I don't remember.

Q. You first said that you drove up that way to give them a chance to talk it over, didn't you?

A. Yes.

Q. Now, your instructions were to go to the hospital, were they not?

A. If I am not mistaken——

Q. Just answer the question. Your instructions—

A. Yes, to go to the hospital.

Mr. Carrow: I think the Prosecutor has had great latitude in cross-examination along this particular line.

The Court: No, the questions are permissible.

Mr. Carrow: May I have an exception?

The Court: Yes, certainly. That is proper cross-examination.

(Exception noted for the defendant.)

(Signed and sealed accordingly.)

FRANK S. KATZENBACH, JR.,
J. (Seal)

JOHN B. KATES,
J. (Seal)

Q. You had received instructions before you started your car to go to the hospital, had you not?

A. Yes, sir.

Q. James had said, "Take him to the hospital"?

A. Yes, sir.

Q. Before you got to Delaware Avenue you had heard them say Paul would say that he had been held up and that you boys had found him and taken him to the hospital, hadn't you?

A. Yes, sir.

Q. Now, after that point was reached, Delaware Avenue and Market, with the intention of going to the hospital, with the story agreed on that you were to tell, why didn't you go?

A. They were still talking about it, and if I am not mistaken—I don't know whether I put it in that statement or not, but I think Mr. James said, "We have got to have this thing straightened up all right before we get there," and they continued on talking about how they were going to fix it up.

Q. Then you were not interested in getting this injured man to the hospital?

A. Yes, I was.

Q. Why didn't you take him there?

A. Because they wanted to get it straightened up before.

Q. Couldn't it be straightened up as they went along Market Street as well as along Penn?

A. Only that they wanted more time.

Q. Couldn't you have stopped the car at any place on the way to Cooper Hospital if they hadn't it fixed up before you got there?

A. Yes.

Q. Why didn't you do that?

A. I don't know.

Q. Why did you take a course that would take you away from the hospital?

A. Only at Mr. James' suggestion.

Q. Was it so—was it at his suggestion or yours?

A. I think it was Mr. James'.

Q. Didn't I understand you to say that you took that course so as to give them more time to think it over?

A. Yes; but didn't I just say a little while ago that it came in my mind later that Mr. James had asked me to go that way so they would have more time to talk it over?

Q. Now, it has come to your mind that he did ask you to go?

A. I believe he did.

Q. If it has come to your mind to the extent that Mr. James asked you to take that course, will you just tax your mind a little bit further and tell me what they talked about after you left Delaware Avenue and the ferry entrance there?

A. I don't remember.

Q. How do you remember that James asked you to take that course and you took it for a specific purpose, and can't remember what was said, although you heard them talking?

A. Well, I told you this morning that there were lots of things I never will remember on that trip.

Q. Did they add to the statement on the way?

A. I believe they were.

Q. Did you hear what they added to it?

A. No. I heard them talking.

Q. You heard them talking?

A. They were talking.

Q. All you can remember is that James asked you to go that way?

A. Yes.

Q. Was Paul talking as you went along the street?

A. They were both talking.

Q. Was he making any effort to get up?
A. I don't know. I was driving the car.
Q. Didn't you turn around and look at his condition?
A. No. I was driving the car. I couldn't turn around.
Q. Didn't you say anything to either James or Paul as you drove the car?
A. No.
Q. Didn't either of them say anything to you?
A. No. Not that I can remember.
Q. What course did you take?
A. Delaware Avenue.
Q. To where?
A. To Penn Street.
Q. As you passed along Delaware Avenue you passed the Victor Talking Machine establishment?
A. Yes, sir.
Q. Special officers out there?
A. I don't know.
Q. You know there are, don't you, at every one of their gates?
A. I don't know whether they have special officers there or not.
Q. Haven't you ever seen them?
A. I don't remember.
Q. And you went on up the street along Delaware Avenue to Penn?
A. Yes, sir.
Q. Then you went out Penn?
A. Out Penn.
Q. What kind of a street is Penn Street?
A. Residential section.
Q. Did you pass anybody?
A. I don't remember.
Q. Did you see anybody as you went along Delaware Avenue?

A. I don't remember seeing anyone.

Q. Did you see anybody as you went along Penn Street?

A. I don't remember.

Q. Did you pass any cars?

A. I don't remember.

Q. See any trolley cars at 2nd and Penn?

A. I don't remember.

Q. Where did you turn off of Penn?

A. Where did I turn off of Penn?

Q. Yes.

A. To return to Market?

Q. Yes.

A. I don't remember.

Q. You have no recollection of that?

A. No, sir.

Q. Where did you turn into Market?

A. Where did I turn into Market?

Q. Yes.

A. I don't remember.

Q. You don't remember where you turned into Market Street?

A. No, sir.

Q. Do you remember going out Market Street?

A. No, sir.

Q. What street did you go out?

A. We went out Market Street, I know that, but I don't remember driving the car out Market Street or seeing anybody or anything. That is what I mean.

Q. You didn't see anybody from the time you left the ferry until you saw Hillman up on the pike at Marlton Avenue; is that right?

A. I think Mr. Hillman is the first person I saw.

Q. From the time you left the ferry until you got out the Marlton Pike you only saw one man, and that was Hillman, out on a country road?

A. Well, if I did see anybody else it was people I didn't know and I didn't take notice.

Q. Did you see them or didn't you?

A. I don't remember.

Q. Did you pass trolley cars?

A. Trolley cars run on Market Street. If I passed any—I don't remember passing any of them.

Q. What was Paul doing then in the car?

A. I don't know what he was doing. I was driving the car.

Q. What is it?

A. I don't know what he was doing. I was driving the car.

Q. Didn't you speak to James or Paul all the way out Marlton Pike?

A. I didn't talk to either one of them.

Q. Didn't turn around?

A. No, sir.

Q. Just kept driving the car? Could you see where you were driving it?

A. I suppose so, or I would run through a house or something.

Q. Then how is it you couldn't see anybody on the street?

A. I didn't look for them.

Q. And didn't look for trolley cars or police stations or anything else, did you?

A. I didn't notice.

Q. You have passed over Federal Street many times in your life?

A. Yes, sir.

Q. In fact, you were born out Federal Street way?

A. Yes, sir.

Q. And you have been over Cooper Creek bridge hundreds of times?

A. I suppose so.

Q. And you know all the conditions around Federal Street?

A. Yes, sure; fire house there and bridge.

Q. You know the bridge tender is there?

A. Yes.

Q. You know trolley cars come out of the barn at Newton Avenue?

A. Yes, sir.

Q. And you know Market Street is a busy thoroughfare?

A. Yes, sir.

Q. With numerous trolley cars?

A. Yes, sir; plenty of them.

Q. Numerous pedestrians?

A. Plenty of them.

Q. Lots of automobiles?

A. Lots of automobiles, yes.

Q. Lots of traffic of all kinds?

A. Plenty of people all along there.

Q. And you didn't see anybody?

A. No, sir.

Q. Where were you heading for?

A. Mr. James and Mr. Paul got in a fight on Penn Street.

Q. In a fight on Penn Street?

A. Yes.

Q. I asked you a moment ago whether you heard anything from James or Paul and you said no, I understood you to say. Now you say something about on Penn Street they got into a fight?

A. Isn't that in my statement? You have it before you.

Q. I am asking you the question. Did you take any part in the fight?

A. No, sir.

Q. Why not?

A. I was driving along there and I heard a noise in the back and Mr. James, when I turned, had a piece of iron beating Mr. Paul on the head with it and cursing.

Q. Is that the first you saw of the iron?

A. I think that was the first time.

Q. Where was that on Penn Street?

A. I don't know exactly where it was.

Q. Do you remember distinctly that it was on Penn Street?

A. I think it was on Penn Street.

Q. What was Paul saying?

A. I don't know what Mr. Paul was saying at that time.

Q. What was James saying?

A. He was using vile language.

Q. What did you say?

A. I didn't say anything.

Q. Do you mean to say, Mr. Schuck, that you heard Frank James beating Dave Paul with an iron, piece of spring, and that you didn't say anything?

A. The only thing I said, when I turned and saw Mr. James with the iron, I said, "Frank, my God, you will kill that man before we get to the hospital."

Q. You thought he was going to kill him, did you?

A. Well, he had beaten him hard.

Q. He had beaten him hard?

A. Yes.

Q. And you merely said, "You will kill him before I get him to the hospital"?

A. Yes.

Q. Why didn't you stop your car?

A. Well, right shortly after that when I turned around to look, Mr. James had pointed a revolver at me and told me he thought it was too late to go

to the hospital, that he already had killed him, and if he went to the hospital he would be held for murder.

Q. Did you see the revolver? Did you see a revolver?

A. Yes, he pointed the revolver at me, I believe twice.

Q. Now, did he or didn't he?

A. Yes.

Q. Why did you answer then, my question a few minutes ago when I asked you if you turned around and looked at Paul or saw him as you went out Penn Street and you said no?

A. I thought you were going to question me at that point.

Q. And now you say you did turn around and saw James with a gun?

A. Well, I thought you were going to question me at that point, because it is in our statement.

Q. Which hand did he have it in?

A. In his right-hand.

Q. And did he have the iron in the other hand?

A. No, I suppose he had dropped the iron.

Q. When did you see the iron?

A. When I first turned.

Q. Then you looked around twice, did you?

A. I think I did, yes.

Q. When you looked around the first time did you see him beating Dave Paul with the iron?

A. Yes.

Q. Did you stop the car?

A. I slowed it down.

Q. Did you stop it?

A. No.

Q. Why didn't you?

A. Why, I stopped—slowed the car down, threw the gas off, turned around and told Frank he would kill him before I could get to the hospital.

Q. If you could stop the car and throw the gas off there for the purpose of talking, why didn't you do it on your way to the ferry, instead of going in the parking place?

A. I didn't stop the car there on Penn Street.

Q. Didn't stop it where?

A. On Penn Street.

Q. Whereabouts on Penn?

A. I don't know where it was.

Q. Had you ever been on Penn Street before?

A. Yes, lots of times.

Q. And you don't know where it was?

A. No.

Q. After you stopped the car and looked around, did he stop beating Paul?

A. Yes, he hit him three or four times, I think.

Q. Did you see him?

A. I heard him.

Q. Did you see him?

A. I heard him.

Q. Did you see him hit Paul with the iron?

A. No.

Q. You knew he was doing it?

A. I heard him.

Q. How many times?

A. Three or four times.

Q. Did it sound as if he was hitting him on the body or on the head?

A. Well, I don't know; I don't know by the sounds of instruments being delivered or hit on people.

Q. Is that when the car was slowed down and the gas shut off, when you saw him doing that?

A. When I heard the noise I shut the gas off and slowed down.

Q. Why didn't you stop the car and go to Paul's assistance then?

A. Well, right shortly after that, I suppose he dropped the iron, because he had a revolver and he pointed it directly at me.

Q. Not shortly afterward; I am speaking of then —you didn't see any gun then, did you?

A. No, not at that time.

Q. No, then you did not know he had a gun, did you?

A. No.

Q. Then why did you not go to the assistance of Paul as he was being beaten there to death as you thought?

A. Because he delivered the blows so quick, everything happened so quick, he must have dropped the iron, because when I turned———

Q. He was engaged with Paul, wasn't he?

A. Yes, he was.

Q. You had control of the car?

A. He delivered those blows before I shut the gas off.

Q. Didn't you say before you heard the blows you looked around and you saw him with a spring in his hand?

A. Yes.

Q. Didn't you say to him, "You will kill the man before I get him to the hospital"?

A. Yes.

Q. Why didn't you stop the car and get out or do something to help Dave Paul?

A. Because Mr. James pointed a gun at me and ordered me to drive on.

Q. You said you hadn't seen any gun at that point?

A. Not just then when he had the iron, no.

Q. And you did not know he had a gun then, did you?

A. No.

Q. But you had a gun, didn't you?

A. No.

Q. Didn't you say so to me in that statement?

A. Yes, I did tell you in that statement, but I positively did not have a gun.

Q. Why did you tell me in this statement that you did have a gun in your possession if you did not have?

A. Well, because I had it with me in Philadelphia a couple of nights before.

Q. What is it?

A. Because I had it with me in Philadelphia a couple of nights.

Q. Didn't I say to you this question: "Why didn't you use the gun that you had?" And your answer was, "I did not even give that a thought."

A. If you will read down a little further you will find out, I think, that I wasn't sure whether I had a gun or not.

Q. I will read it all the way through if you want me to. Didn't you answer another question of mine, "Wouldn't that indicate that you did have it? A. I must have head it with me that day"?

A. Well, what was the question before that, Mr. Wolverton—why did you remind me of that?

Q. "Q. Do you remember getting this at any time after this crime"—referring to your little pearl handled gun. "A. The little one? Q. Yes, A. No, I do not. Q. Wouldn't that indicate to you that you did have it? A. I must have had it with me that day." Now, did you answer that?

A. Well, I wasn't sure when I said I must have had it with me—

Q. That is strong language, isn't it?

A. Well, I wasn't sure.

Q. Then later on in the examination when I said to you, "Why didn't you use the gun that you had?" did you not answer, "I did not even give that a thought"?

A. I suppose I did say that at that time.

Q. When did you make up you mind that you did not have a gun?

A. Why, since I have been up here in the county jail, thinking the whole thing over.

Q. Why didn't you make up your mind that you did not have a gun when you told me on November 10th, you did have?

A. Because I knew afterward I didn't because I remember getting the revolver that night in the office when Mr. James changed his shirt and collar.

Q. That came to you after your arrest?

A. Came to me afterward.

Q. How long ago?

A. I don't remember how long.

Q. Can't you give me some idea when it was?

A. It may have been two or three weeks ago, I don't know.

Q. How long is it?

A. Two or three weeks ago.

Q. Is your memory better now than it was on November 10th?

A. Yes, a little bit.

Q. Then why is it you can't give me so many of these details and say you don't remember?

A. Well, I don't; I told you there was lots of things that happened on that trip that I never will remember, due to my fright and nervous condition.

Q. Now, you say you did not have a gun on that day?

A. I did not.

Q. Did not?

A. I did not.

Q. At the time that James was beating Paul as you have said, with an iron on Penn Street, you did not see any gun in his hand then when you looked around, did you?

A. Not when he first had the iron.

Q. Then you were in the better position, were you not, if you had a revolver?

A. If I had a revolver, yes.

Q. And you told me on November 10th, that you did have, didn't you?

A. Yes, because I ——

Q. And you said you did not give it a thought, didn't you?

A. Yes.

Q. Now, whether you had a revolver or not, if he was beating him so with that iron as to make you remark, "You will kill him" why didn't you do something to stop him from killing him?

A. Because Mr. James pointed a revolver at me and threw me in such a fright and nervous condition that I did not know what I was doing.

Q. You said that you did not see any revolver when he was beating him with the iron?

A. No.

Q. That it was afterward that you saw the revolver?

A. Yes, immediately afterward.

Q. Before you saw the revolver why didn't you take some steps to protect Dave Paul?

A. Why, because Mr. James—It only took a couple of seconds, I suppose, to deliver those three or four blows.

Q. Were you looking at him, or had you turned around?

A. I had just turned.

Q. And you saw him beat him?

A. He had just stopped when I looked.

Q. And he had the iron in his hand?

A. He had the iron in his hand.

Q. And you make the remark that you did about killing him, didn't you?

A. About who killing him?

Q. That if he did not stop he would kill him?

A. Yes, and when I turned——

Q. Why didn't you jump right over at him and pin his arms and keep him from doing anything further?

A. I don't know why I didn't; I didn't want to get into a fight.

Q. Did you make any outcry for help?

A. No.

Q. Did you make any effort to leave the car?

A. No.

Q. Did you make any effort to stop the car at any point and get help?

A. No.

Q. And you did not go to the hospital?

A. No.

Q. And then went out Federal Street?

A. Mr. James told me——

Q. To Marlton Avenue, didn't you?

A. He pointed a revolver at me and told me to drive over to Market and out Market. I don't remember a thing after that, due to the fright he gave me, my nervous condition.

Q. You remember a part of it, don't you?

A. Yes, there is a good bit I don't remember.

Q. Why didn't you do something to help Dave Paul before you ever saw the revolver, as you say you did?

A. What is that question?

Q. Why didn't you do something to help Dave Paul, if he was in such a dangerous condition before you saw the revolver?

A. At the time on Penn Street?

Q. Yes.

A. Because it happened too sudden.

Q. Did it happen as suddenly as that at the ferry when you didn't have time to think except for your own personal protection?

A. That is all.

Q. What was Paul saying when he was being beaten by James as you say?

A. I don't remember what he said.

Q. Was he saying anything?

A. I don't remember, Mr. Wolverton.

Q. Was he unconscious?

A. He was, I believe. I know, I didn't hear him say anything after he got hit on Penn Street.

Q. You said as they came along Penn Street they were talking about how to fix it up?

A. Just before.

Q. At the hospital?

A. Just before.

Q. If they were talking about how to fix it up what reason was there for any blows to have been struck there?

A. I don't know, only that I remember in Philadelphia, when I asked Frank about that he told me he just caught Mr. Paul in time, that he was pulling his revolver out to shoot him; he says that was the cause.

Q. Then Paul was trying to protect himself, was he?

A. He must have been getting his revolver out to shoot Frank.

Q. Did you see him try to protect himself?

A. No, only what Frank told me.

Q. Then it was serious if he was trying to protect himself, wasn't it?

A. Why, it surely must have been.

Q. Then if it was serious enough for Dave Paul to try to protect himself with a gun that he had, why didn't you help him?

A. Because I was on my way to the hospital with him, I thought I was doing enough by going to the hospital, driving the car there.

Q. What happened on Penn Street to change the attitude of these two toward one another? You said they were talking over——

A. Yes.

Q. Adding to their previous statement?

A. Yes.

Q. Did you hear anything else said that would occasion any other blows being struck?

A. I did not.

Q. Did you interfere in any way between them as you went along Penn Street?

A. I did not.

Q. You had done everything that was expected of you up to that point, hadn't you?

A. Driving the car to the hospital.

Q. What reason was there for anybody to point a gun at you then and tell you to do anything?

A. Well, I don't know for what reason Mr. James did that.

Q. You had not attempted to protect Dave Paul, had you?

A. No, I was taking him to the hospital.

Q. You had not done anything to stop Frank James from beating Dave Paul, had you?

A. No.

Q. You had not raised a finger or a voice in protest, had you?

A. No.

Q. Then what reason would there be to point a gun at you and compel you to do anything?

A. I don't know, only Mr. James was in a raving, mad condition; I don't know, I don't believe he knew what he was doing.

Q. Then you don't know any reason——

Mr. Carrow: Wait a moment, let the witness answer the question.

The Prosecutor: Oh, I thought he had when he put his hand down.

The Court: I think the witness had not quite answered, Mr. Wolverton, when the next question was asked.

Q. Go ahead.

A. What was it?

Q. They want you to finish the answer, your counsel does.

(Former question and answer repeated.)

The Court: Is there anything further you wanted to say?

The Witness: No, I will answer the next question.

The Court: Of course, the witness has the opportunity of saying anything further in answer to the question if he wants to. He now has his opportunity; do you want to say anything further in an-

swer to that question, Mr. Schuck, than you have said?

The Witness: Will you read that again, Mr. Berry, please?

The Court: Just read the question and what he said.

(Former question and answer of the witness was then read by the stenographer.)

The Court: Do you want to say anything more?

The Witness: I don't believe he knew what he was doing; he was in a raving fit; his eyes were sticking out of his head; he looked like a crazy man to me; he scared me half to death.

Q. Then you don't know of any reason so far as your conduct was concerned to occasion any threats whatever being made to you by Frank James?

A. No.

Q. There was an occasion for you to help David Paul, was there not?

A. Yes.

Q. Why didn't you do it?

A. Because Mr. James pointed a gun at me and told me——

Q. Before he pointed the gun I am speaking of—why didn't you help Dave Paul?

A. He had delivered the blows on Mr. Paul's body somewhere before I turned around.

Q. And you slackened the car down by shutting the gas off, didn't you?

A. Slowing the car down. Well, I——

Q. You could have stopped it just as well as slowed it, couldn't you?

A. I suppose I could, yes.

Q. Why didn't you stop it and get out at that particular point?

A. Why, I turned and passed the remark to Mr. James not to go any further.

Q. Then you turned around again?

A. I turned around again and Mr. James had the revolver pointed at me.

Q. I mean you turned to the front of the car again?

A. Yes, to see where the car was going.

Q. And you started down——

A. To see where the car was going; then when I turned around to look at Mr. James again, he had the revolver and pointed it directly at me.

Q. You saw it?

A. Yes.

Q. Where had he gotten it from?

A. I don't know.

Q. You had not see it before?

A. No.

Q. How far along Penn Street did they talk——

A. I don't know.

Q. —— about adding to the statement as to what would be said at the hospital?

A. I don't remember.

Q. What part of Penn Street was it that James started to beat Paul as you have said?

A. I don't remember.

Q. Was it before you reached 7th?

A. I am not positive whether it was or not.

Q. Now, you say that you didn't know up until that time that James had a revolver?

A. No.

Q. And that was the first place that he threatened you?

A. Along Penn Street.

Q. Anl you went up Penn Street, you say to give them a chance to talk it over?

A. Yes, sir.

Q. Then some place on Penn Street that you can't remember was when this threat was made to you?

A. Some place along Penn Street.

Q. If that is true, why, then, did you say in your statement to Mr. Parker on November 6th in the presence of your counsel, which was yesterday introduced in evidence, "Then Frank started to say he was sorry, he was bleeding, and he told me to take him to the hospital, so I backed the car around and started for the hospital, and when I got to Delaware Avenue he told me not to go up Delaware Avenue but to go up Market Street, and he had his gun out and he told me to drive up Market Street to Delaware Avenue, and from Delaware and Penn." Did he have his gun out then?

A. No. Since I have thought the whole thing over and had more time to think it over, it wasn't there that he had the gun out. It was on Penn Street.

Q. Then you are now positive that there was no gun seen or known of by you until you reached Penn Street at some point?

A. Out on Penn Street.

Q. What is it?

A. Out on Penn Street.

Q. And no threats had been made up to that point?

A. No.

Q. And you had made no refusal to do just what you were asked to do?

A. No.

Q. Did you refuse at any time?
A. I don't remember.
Q. Where did you turn off of Penn Street?
A. Turned off of Delaware Avenue.
Q. Where did you turn off of Penn?
A. To go where?
Q. What is it?
A. To go to Market Street?
Q. Yes.
A. I don't know.
Q. You don't know where you ran into Market Street?
A. No. Mr. James pointed that revolver at me. He gave me such a fright and it threw my nerves into such a condition that it dazed me. I was dumbfounded, I didn't know what I was doing.
Q. Did he point the revolver at you without saying anything?
A. Only that it was too late to go to the hospital, that he thought he had already killed Mr. Paul and that if he went to the hospital he would be held for murder.
Q. Is that all he said?
A. That is all I can remember. He may have said something else.
Q. Is that what dumbfounded you?
A. When he pointed the revolver at me.
Q. Did he say anything to you other than it was too late to go to the hospital?
A. He may have said something.
Q. Didn't you say that Mr. Paul was trying to get his revolver?
A. Yes; I have already told you that.
Q. Was it Paul's revolver that he had, or his own?
A. I don't know.
Q. Isn't it true that you knew that it was your revolver?

A. That it was my revolver?

Q. Yes.

A. A revolver I had given him quite some time before.

Q. Had you given it to him some time before?

A. I had given him a revolver about a year before.

Q. Was that the revolver?

A. I don't know whether that was the one or not.

Q. Where did he usually carry it?

A. I don't know where he carried it.

Q. Had you never seen it from the time you gave it to him until then?

A. I think I did.

Q. When?

A. I don't know just when it was.

Q. Was it in the car?

A. I think he had it in his hand one time fooling with it.

Q. Did he have a habit of carrying it in the car?

A. I don't know whether he did or not.

Q. Did he make any threat to you at the time you saw the gun?

A. When? Before this trouble, you mean?

Q. No. On Penn Street.

A. Make any threat before I saw the gun?

Q. Yes.

A. He made a threat when he pointed the gun at me.

Q. What threat? What did he say?

A. Well, outside of it was too late, he thought it was too late to drive to the hospital.

Q. Well, then, at the time he pointed the gun, you say, at you, he didn't make any personal threat to you, did he?

A. No, but he had the revolver pointed directly at me.

Q. But he didn't say any threat to you, did he?
A. I don't remember of him saying anything.
Q. All he said is, "It is too late to go to the hospital now"?
A. And he had that revolver pointed directly at my face.
Q. Pointed it in the air at your face?
A. Pointed right at my face when I turned.
Q. Where was Dave Paul?
A. He was in the back of the car.
Q. You had made no effort to resist or outcry, had you?
A. No.
Q. And when you turned around you say he had a gun pointed at you and said, "It is too late to take him to the hospital, go out Market Street," but made no threat to you?
A. Outside of pointing the gun at me.
Q. And then you went?
A. Yes.
Q. Out Market Street?
A. I don't know how I got over to Market.
Q. You knew you were not going to the hospital, didn't you?
A. He told me not to go to the hospital.
Q. Why didn't you stop the car and leave it?
A. I was dazed, dumbfounded, my nerves were in such a condition I didn't know what I was doing.
Q. You were not too scared to do what he told you to do, were you?
A. I didn't know what I was doing.
Q. You knew you went over Market Street, didn't you?
A. I know that I went out Market Street.
Q. Then if you knew you went out Market Street, you knew you were not going to Cooper Hospital, didn't you?

A. I didn't know what I was doing.

Q. You knew you were doing what he told you to do, weren't you?

A. I followed his instructions, yes. I was in fear of him.

Q. You had mind enough to do that?

A. I followed his instructions in fear of him.

Q. If you had mind enough to do what he told you to do, why didn't you have mind enough to not do what he told you to do?

A. On account of my frightened and nervous condition.

Q. Then you knew you were not going to Cooper Hospital?

A. At that time, sure.

Q. What is it?

A. At that time.

Q. Why did you say you were too dumbfounded, you didn't know what you were doing?

A. Neither I did.

Q. Didn't you know you were not going to Cooper Hospital when you were going out Market Street?

A. Well, I couldn't have gone to Cooper Hospital driving out Market Street.

Q. So when you turned out Market Street you knew you had turned your back on Cooper Hospital, didn't you?

A. I didn't know what I was doing.

Q. And you knew the farther you went out Market Street the farther you were taking Dave Paul from the physician's help which you thought he ought to have?

A. I didn't know what I was doing.

Q. You knew as you went out Market Street you could have stopped and gotten help at the fire station, didn't you?

A. I don't remember passing there. I don't remember passing anybody.

Q. You know there is a fire station there?

A. I know there is one there, yes.

Q. And you know there are firemen on duty there all the time?

A. Yes.

Q. Twenty-four hours in the day?

A. Yes.

Q. And it is right along the street there?

A. Yes.

Q. And you didn't know that you were passing along Federal Street when you drove your car?

A. I was too nervous.

Q. Driving your car without regard to what was on the street or what you were passing?

A. I didn't know what I was doing.

Q. Don't know whether you had narrow escapes or not?

A. No.

Q. Didn't see any body?

A. No.

Q. Don't know whether you had to turn out for wagons or trucks or automobiles?

A. No. I don't remember seeing anything.

Q. Don't know whether you had to slow up to go back of a trolley car?

A. I don't remember anything at all.

Q. Don't remember whether you had to turn out for any automobiles?

A. I don't remember anything at all going out there.

Q. When do you first remember?

A. When Mr. James yelled for me to go out Marlton Avenue.

Q. Then you heard his voice?

A. Yes.

Q. Did you hear Paul say anything on the way out?

A. No.

Q. Did you say anything to any of them?

A. No.

Q. Where were you when James said, "Go out Marlton Avenue"?

A. Just almost to Marlton Avenue.

Q. You remember that distinctly?

A. Well, I turned out Marlton Avenue.

Q. You remember that before you got to it he told you to do it?

A. Yes.

Q. Then why can't you remember where on Penn Street he told you to turn and not go to the hospital?

A. Well, I don't know. I just don't remember, that is all.

Q. When you reached Marlton Avenue, where did you go?

A. Drove out Marlton Avenue.

Q. Was anything taking place between James and Paul?

A. I don't remember now whether there was or not.

Q. Was Mr. Paul saying anything?

A. I didn't hear him.

Q. Was James?

A. I think James was cursing, using vile language or something.

Q. Was he talking to you or to Paul?

A. I don't know. He was talking to himself, I suppose, he was so mad and angry.

Q. When you went out Marlton Avenue how far did you go before you turned?

A. To Baird Avenue. We turned in Baird Avenue.

Q. How far off of the pike did you go?

A. Just a short distance.

Q. How far in toward Forest Hill Park did you go? I show you Exhibit S3. Which road did you take as you turned in?

A. I don't know what road it was. Does this road here lead out to Marlton Pike, do you know?

Q. This is Marlton Pike along here?

A. Yes, but this road here.

Q. I don't know.

A. Well, I may have turned in that road. I don't know what road it was.

Q. How far in from the pike did you go before you stopped?

A. Oh, about half a square, probably the length of this court room.

Q. Do you know any more desolate place in the City of Camden than that is?

A. No.

Q. After you had gone in a half square, who stopped the car?

A. Mr. James was beating Mr. Paul again.

Q. Who stopped the car?

A. I stopped the car.

Q. Why?

A. Because after Mr. James beat Mr. Paul I stopped and pleaded with him not to go any further before it was too late.

Q. Did you do anything to help Dave Paul?

A. I didn't have time to.

Q. Why not?

A. Because Mr. James had beat him three or four more times on the head and had pointed the revolver at me again and told me to drive on, it was no place to stop.

Q. Did he have the revolver in his hand when you turned around, and was beating Dave Paul?

A. He had beat him before I stopped.
Q. You heard him beating him?
A. Yes.
Q. You stopped the car for that reason?
A. I stopped to plead with him for him to stop.
Q. Did you stop the engine?
A. No.
Q. Why not?
A. Well, I don't know why I didn't stop it.
Q. Why not?
A. I just shut the gas off, pulled the lever up and turned to him.
Q. It would have been easier to have stopped it completely than it was to have stopped it and kept the engine going, wasn't it?
A. I didn't think of that at that time; I was too nervous and too excited.
Q. You could have stalled the engine quicker than you could——
A. I suppose there was a lot of things I could have done, yes, but I didn't do through my nervous condition.
Q. Did you think it necessary to stop that car?
A. I certainly did think it was necessary to ask him not to go any further in beating that man.
Q. And you stopped the car in order to ask him that, did you?
A. Yes.
Q. Did you turn around?
A. When I asked him to stop beating the man.
Q. Did you get up out of your seat?
A. No, sir.
Q. Did you use a revolver?
A. Did I use a revolver?
Q. Yes.
A. No, sir.

Q. Did you make any effort to protect Dave Paul?
A. No, sir, I didn't have time.
Q. Was he busy beating him with the iron?
A. He beat him before I stopped.
Q. Then when you stopped what happened?
A. He pointed the revolver at me and told me that he was damned desperate, that he needed money, and he would go through with it.
Q. Didn't you hear Dave Paul say anything there?
A. Yes.
Q. What did he say?
A. Mr. Paul says, "Help, help," in a very faint voice.
Q. "Help, help"?
A. In a very faint voice.
Q. You can remember that today, can't you?
A. Yes.
Q. That has not been told to you?
A. No.
Q. You remember it?
A. Yes.
Q. You can hear it now, can't you, "Help, help"?
A. Yes, just about.
Q. What else did you hear Dave Paul say?
A. He said, "Frank, leave me out, you take the money, you know what to do."
Q. "Take the money but leave me out"?
A. Yes, he said, "You know what to do."
Q. Why didn't you get out?
A. Well, I stopped the car and plead with Mr. James not to beat him any more.
Q. Why didn't you get out?
A. Because I was too excited, too nervous.
Q. You were too excited and too nervous to help Dave Paul?
A. Yes.

Q. You were too excited and too nervous to even leave the car?

A. Yes, I was afraid to leave the car after his threats of shooting me.

Q. Did he threaten to shoot you if you left the car?

A. Well, he pointed the revolver at me and I was afraid he might, due to his raving condition.

Q. He didn't make any threats to you?

A. No, he didn't come right out and say, "I will blow your brains out," or anything like that.

Q. Why didn't you use the gun that you had?

A. I didn't have a revolver with me.

Q. Didn't you answer to my question, say when I asked you, "Why did you not use the gun that you had?" Didn't you answer, "I did not even give that a thought"?

A. I did not know I had the gun with me at the time I made that statement.

Q. Did you make that answer to the question which I asked, "I didn't even give that a thought"?

A. Yes.

Q. There was no idea in your mind then that you did not have a gun, was there, when I took that statement on November 10th?

A. No, because as I told you——

Q. That idea that you did not have a gun has come to you within the last two or three weeks, since you have been in the county jail awaiting trial?

A. Yes, I have had more time to think over my movements.

Q. Did anybody bring it to your attention, or did you think of it?

A. I thought of it.

Q. When you thought of it, did it bring back to your mind that you had told me that you did have a gun and did not think to use it?

A. Yes.

Q. Had you previously told anyone that you had told me on November 10th that you had a gun but did not think of using it?

A. Did I tell anyone that?

Q. Yes.

A. I don't remember.

Q. Did you ask anybody to help you remember whether you had a gun or not?

A. No.

Q. Did you ever talk to Frank James and ask him to remember whether you had a gun or not?

A. No.

Q. How did it come into your head then?

A. Well, I just happened to think when he and I were down at the office and he changed his shirt and collar, that I was going through my desk and saw the gun and put it in my pocket at that time, and I knew when I thought that that I had told you in that statement differently.

Q. Then you remembered you had told me differently after you thought that you had gotten the gun down there?

A. Yes, in that statement I was not sure.

Q. You had it in your mind from the time that statement was taken, what you had told me, hadn't you, and you made up your mind it would have to be changed, and you taxed your memory to find out whether you did not have the gun with you, didn't you?

A. No, I thought of it.

Q. Did you think of it once or twice, or did it come to you all in a flash?

A. Well, it came to me all of a sudden about the gun when I was thinking about——

Q. In the daytime or night time?

A. Well, I don't think I was dreaming of it, I must have thought of it in the daytime.

Q. It was not imagination then?

A. No, sir.

Q. Some of the thoughts which you have had, in which you have stated differently today that in that statement you say is either imagination, or came to you from James, haven't you?

A. Yes, some things.

Q. Now, was this one of the gun the result of imagination or something that had been said to you by someone, or something that you had thought of?

A. It was what I thought of.

Q. It came to you all in a flash?

A. Yes.

Q. The whole thing, where you had gotten the gun?

A. At the office, yes.

Q. Can you imagine anything more important in this case than that? Do you know of any more important thing in this case that you have changed your statement on?

Mr. Carrow: Well, if your Honor please, I hardly think that is a fair question. I assume everything in the statement that the witness made is important.

The Court: There is some objection to that question, Mr. Wolverton.

The Prosecutor: Yes, I will withdraw it.

Q. Do you think now of any change that you wish to make in that statement other than the gun?

Mr. Carrow: Well, now, wait a minute. I hardly think that is a fair question for Mr. Wolverton to

ask this witness. He is in no mental condition to answer a question like that, in which he will place himself on record to be absolutely bound in that manner.

The Court: I think this question is permissible. He knows the statement, Mr. Carrow, he has heard it read in a very short time.

Mr. Carrow: There are two statements, if the Court please.

The Prosecutor: If your Honor please, I was in the same position yesterday when I made the same objection.

The Court: Yes, I am going to allow this question.

Mr. Carrow: May I have an exception?

The Court: Oh, yes.

(Exception noted for the defendant.)

(Signed and sealed accordingly.)

FRANK S. KATZENBACH, JR.,
J. (Seal)

JOHN B. KATES,
J. (Seal)

Q. Is there any other part of that statement taken on November 10th, that you wish to change as a result of subsequent thought?

A. There is some things; as we go along I will come across them, I can't——

Q. Can you mention them to me now?

A. No, I can think of them as we go along.

Q. Do you remember the occasion of being in my office the night before you went to the Mount Holly Jail?

A. Yes.

Q. Do you remember having made a statement at my office on October 23rd, in which you denied being with James on the 13th and 14th of October?

A. Yes.

Q. You were with him at that time, weren't you?

A. Yes.

Q. That was the day—the 13th was the day that the seat was bought, wasn't it?

A. Yes, sir.

Q. And the 14th was the day the body was buried?

A. Yes, sir.

Q. And you knew that when you talked to me on the 23rd, didn't you?

A. Yes, sir.

Q. And after that and in that statement you said that you had not seen Frank James from October 5th, until about the 16th, wasn't it?

A. Yes.

Q. When you saw him with his wife on Federal Street?

A. Yes, sir.

Q. We asked you if you had taken a ride, didn't we, with him on either of those days in a car?

A. If who had taken a ride?

Mr. Carrow: Well, if the Court please, I think it is only fair that the Prosecutor put the specific question to him that he asked on that occasion.

The Prosecutor: I will change the question.

Q. After the statement was completed and you had stated that you had not seen James on any of these days intervening, did not Mr. Painter go to you with a piece of paper and ask you to right down those words over your signature, that you had not seen Frank James on the 13th or 14th of October?

A. Yes.

Q. And did you not say that you had given your statement, but would not put it in writing?

A. Yes.

Q. Now, at the time you came to my office before you went to the Mount Holly grand jury, the evening before, in your conversation with me you told me that you had remembered then that you were with him on the 13th and 14th, didn't you?

A. Yes, sir.

Q. How did that recollection come to you? Were you told that James had already said that you were with him on those days?

A. Yes.

Q. Who told you that James had given us that information, and that your statement that you were not with him and his statement that you were with him, did not gee, and that you wanted to change your story at that point—who told you what James had said?

A. It was given to me in writing.

Q. By whom?

A. By Mr. Walsh.

Q. Who was Mr. Walsh?

A He is a lawyer, one of Mr. James' lawyers.

Q. Have you the writing?

A. In writing, yes.

Q. Have you that writing now?

A. No, it was destroyed.

Q. Who destroyed it?

A. I destroyed it.
Q. Where did you get it?
A. Mr. Walsh gave it to me.
Q. Where?
A. At my father's home.
Q. For what reason?
A. He said, in a slip——

Mr. Carrow: Now, wait a minute, if the Court please; do I understand the Prosecutor is trying to get this witness to state what reason Mr. Walsh had for giving him this?

The Prosecutor: Yes.

Mr. Carrow: I don't think he is qualified.

The Court: Well, anything that Mr. Walsh told him regarding that matter—these are dates upon which you examined him?

The Prosecutor: I examined him as to his movements on the 13th and 14th.

Q. For what reason did Mr. Walsh give you that writing, informing you as to what James had said?
A. Frank had it all written out on a slip what I was to tell you and when I was with him, a lot of stuff in there was a pack of lies anyway; he wanted me to tell you that.
Q. You had already told us the lies, hadn't you?
A. Yes, I will admit I lied in that statement.
Q. So that without any suggestion from James you had already lied to us?
A. Yes.

Q. And then to make sure that you were both lying later on you say James wrote a note to you and told you what to say?

A. Yes.

Q. You had previously given us your statement that you were not with him on that 13th and 14th?

A. Yes.

Q. Did he ask you to change anything else?

A. Not that I can think of just at present.

Q. That was the only thing it said in the note?

A. Just about Wednesday and Thursday.

Q. What did it say in the note?

A. Oh, I forget what it was. The movements was different from what we had taken.

Q. What was it?

A. It was a ride down in the country or something, some other place than where we were.

Q. Do you remember me saying to you the night before you went to Mt. Holly jail when you said, "That statement I gave you is true with two exceptions,"—you said that to me, did you not, in my office? And I asked you what the exceptions were?

A. There was something said, but I don't remember what it was.

Q. And then you took a card out of your pocket, didn't you? Isn't that right?

A. Yes, I believe I did.

Q. And you looked at the card and you said to me, "What day did the 13th come on," did you not?

A. There was something said between us.

Q. And we looked for a calendar and couldn't find it, and I recollected it was Wednesday, and I said, "Wednesday," and you said, "Yes."

A. I think you are right.

Q. And you said, "I want to say that I told you I wasn't with Frank James that day and on the 14th, but I was." Isn't that right?

A. Yes. I can't remember it, but I will take your word for it.

Q. And I said, "Who told you to say that," didn't I?

A. I think you did.

Q. I said, "I expected you to change your remark, from a conversation I had had," didn't I?

A. I will take your word for it.

Q. Then you said, "Yes, I was with him on those days," and I said, "I expected you to say that, that you would change your mind," didn't I?

A. I think you did say that.

Q. Now, at that time you changed your mind as the result of a note that was written to you; is that right?

A. Yes, sir.

Q. You changed your mind as to what you would tell me as a result of what somebody told you to do, is that right?

A. What do you mean, about Wednesday and Thursday?

Q. Yes.

A. Yes.

Q. Why did you change your mind because somebody told you to tell a different story? Why did you do it?

A. Frank had threatened me that he would incriminate me in this crime as bad as he was in it if I told or squealed on him.

Q. Did you say that to Mr. Walsh in the home of your father when he asked you to change that story?

Mr. Carrow: I object, if your Honor please. Whatever he told Mr. Walsh at that particular time, as I view the law, was privileged.

The Prosecutor: Mr. Walsh was the attorney for James.

The Court: My recollection of it was that Mr. Walsh was Mr. James' attorney.

Mr. Carrow: At that time I understand that Mr. Walsh was also engaged to look after this defendant's interests.

The Court: There is no evidence of that kind, Mr. Carrow, in this case.

Mr. Carrow: The trouble is after it is in there is hardly any use establishing that feature. I do not care.

Q. Did you tell Mr. Walsh or your father on that occasion?

A. No, sir.

Q. But you didn't hesitate to change your story, did you?

A. No.

Q. How did it happen that you received the note? Who brought it to you?

A. I think it was Mr. Walsh that give it to me in my father's home. It was either he or my father.

Q. When? How soon after you had been at my office?

A. It was when James was arrested at the city hall.

Q. How did Mr. James, who was locked up in the city hall, know what you had told me on the 23rd of October, that would cause him to write a note to you to change your testimony?

Mr. Carrow: I object. How could this witness answer that question intelligently? There is nothing indicating here that he did know that Mr. James had made any different statement.

(Question repeated.)

The Court: If he knows, he can answer. If he does not know, he does not have to answer.

Q. Answer the question, Mr. Schuck.
A. I don't know at the time—at this time.
Q. Whom did you tell what you had said at my office on October 23rd?

Mr. Carrow: If your Honor please, what material difference does that make if he told a thousand people what he told Mr. Wolverton, what has that to do with this particular case? What he told Mr. Wolverton is in evidence. What difference does it make if he told everybody he knew what he told Mr. Wolverton?

The Prosecutor: I consider it material for this reason: This witness has time and again during his cross-examination, and, in fact, during his direct examination, given a different statement as to very material points in this case different from what he had previously made in statements which he said were the absolute truth. On each one of those occassions I am examining him as to why he changed his mind and now he gives either more details or changes his story. In addition to that, by way of examining him as to the different influences which may have caused him to change his testimony, I bring to his attention this circumstance in which his

testimony was changed in a material part of this case in an effort to find out whether that change is due to his own thought or whether it is due to suggestion or to help from outside influences. The fact is that in this particular case he made a statement to the Prosecutor in his office on the 23rd of October, in which he makes a statement concerning the 13th and 14th of October. He afterwards, as he has admitted, changed that statement and admitted being with James on those two days, which are material to this case. In examining him as to why he changed his mind, whether it was thought on his part, recollection, or whether it was suggestion, he has told me that it was suggestion on a note from James. I think under those circumstances we are entitled to go into those details.

Mr. Carrow: The question is much broader than that, and I do not think Mr. Wolverton's argument is germane to the question he asked.

(Question repeated.)

Mr. Carrow: Mr. Wolverton says that he asks that question to see what influences were brought upon this young man to change his statement, if he did. I maintain it does not make any difference what the situation was. He changed his statement. The Prosecutor can prove that fact. The statement was changed, he said, one thing one time and another thing at another. It does not make any difference why he did that.

The Prosecutor: If the Court please, the peculiar situation that shows——

The Court: Will you make the question—the theory of the question is all right, but you are examining this witness now on what transpired on October 13th and 14th?

The Prosecutor: Yes, sir.

The Court: And your purpose is to show that he has made different statements and you want to know why he has changed his statements, do you not?

The Prosecutor: Yes, sir.

The Court: Then will you just make the question a little bit narrower and limit it to what he said to you on October 23rd, regarding his movements on October 13th and 14th?

Q. Why did you change your statement concerning those two days?

A. Mr. James helped me to work out that statement before he was arrested sometime, about my movements.

Q. Did you know at the time you made that statement to me that Mr. James had said you were with him on the 13th or 14th of October?

A. He told me something to tell the Prosecutor if I was taken up before him about the 13th and 14th, and when I made my statement I had forgotten what it was and I didn't put it in the statement; and then afterwards he sent me this note, and says, "The Prosecutor tells me that you didn't say that you was with me on Wednesday and Thursday, the 13th and 14th," and it was in that note that he told me what to say.

Q. Well, then, when Frank James wrote a note and told you that I had told him that you have made a statement that you were not with him on the 13th or 14th and he said that he was, and asked you to say that you were with him on that day, he was asking you to tell the truth, wasn't he?

A. No, he had a different story made up altogether about where were were on the 13th and 14th.

Q. You had told me an untruth, had you not, about the 13th and 14th?

A. Yes.

Mr. Carrow: Will you please let the witness answer that question?

The Court: The question was answered.

Q. And James, when he heard that you had told me an untruth, wrote to you and told you to tell me that you were with him on those two days, which was the truth; isn't that right?

A. It wasn't the truth what he had in that note.

Q. Wasn't it the truth that you were with him on the 13th and 14th?

A. Yes, it was the truth that I was with him, but I mean it wasn't the truth as to where we were.

Q. As to where you were? So that you were to admit that you were with him, but not to admit where you had been?

A. That is the idea.

Q. Where had you been on those days?

A. You don't want me to repeat what was in that note?

Q. I say, where had you been on those days?

A. Mr. James came to my home in the morning. I was sick in bed.

Q. And you had bought the seat on the 13th and buried the body on the 14th, hadn't you?

A. Yes, sir.

Q. Now, at Marlton Avenue you say that he pointed the gun at you, is that true?

A. Yes, sir.

Q. You had stopped the car because he was beating Paul?

A. Yes.

Q. How long did the car stop there?

A. Oh, it was a very few seconds.

Q. Where was the money?

A. It was out in the front of the car, I presume.

Q. Did it remain there?

A. Somewhere along the road Mr. James told me to throw the money back, or, "Throw the package back," he says.

Q. What time of the afternoon was it then?

A. I don't know.

Q. What time had you met Dave Paul?

A. I suppose it was around 1.30, something like that.

Q. Was Dave Paul able to say anything after he had said, "Take the money but let me go"—did you ever hear him say a word after that?

A. I am not positive about that; I was too excited and frightened and nervous; I am not positive about it.

Q. Which did he say first, "Help, help" or "Take the money and let me go"?

A. I can't say for sure what it was; I know it was something about that.

Q. When you turned around what was his position?

A. When I turned around his knees were sticking up in the air; his body must have been down on the floor.

Q. And where was his head?
A. I don't know, I didn't look.
Q. Couldn't you see it?
A. Well, I didn't look.
Q. Did you get up out of your seat?
A. No.
Q. Did you leave your seat at any time from the time the first blow was struck until you got to the pines where was the body was dragged out and laid——
A. No, sir.
Q. Was there any reason why you didn't?
A. Yes, Mr. James pointed that revolver at me.
Q. He had not pointed the revolver at you at the ferry, had he?
A. No.
Q. He hadn't pointed it at you along Delaware Avenue?
A. No.
Q. He had not pointed it at you along Penn Street?
A. No, I was on the way to the hospital.
Q. And you did not do anything, even when you thought it was serious at the ferry?
A. I just thought it was an ordinary fight there.
Q. Now, when you got to Marlton Avenue, you thought then it was serious, didn't you?
A. Yes.
Q. Was that the first time you thought it was?
A. Yes.
Q. Didn't you think it was serious on Penn Street?
A. Yes.
Q. If you thought it was serious on Penn Street why didn't you think enough to leave the car there?
A. I was too frightened and too nervous when Mr. James pointed that gun at me.

Q. You weren't too frightened and too nervous to realize that it was serious—why didn't you leave the car then?

A. Just for that reason, due to my fright and nervousness and everything.

Q. Then from the time you left Penn Street until you got this side of Marlton Avenue on Federal you did not know what you were doing?

A. No.

Q. But you remember James told you to go out Marlton Avenue?

A. Yes.

Q. Are you sure you did not do that on your own thought?

A. No.

Q. You were not too dumbfounded to hear James, were you?

A. No, he shouted.

Q. But you were too dumbfounded to see anybody on the street?

A. Yes.

Q. Then as you went out Marlton Avenue you heard Paul say something, didn't you, trying to make an outcry?

A. I think that was on Baird Avenue.

Q. Didn't he try to make an outcry?

A. I don't remember about that.

Q. Haven't you told me in your statement that you thought from the sound that James was trying to choke him?

Mr. Carrow: Now, if your Honor please, I think that the Prosecutor should be required to put the question and answer to him, in seeking to contradict a witness by a former statement. If your Honor will recollect, I was bound to that yesterday in the examination of Mr. James.

The Court: Yes, but you will recollect that I did not insist upon it and allowed the question. Of course, there are certain distinctions. On cross-examination you have a right to ask a general question, but if you want to lay the foundation for a contradiction by putting someone else on the stand, then you must be more specific, and you will observe that I allowed you to be quite general over the objection of Mr. Wolverton, when I thought that the first purpose which I have mentioned was the only one that you were seeking, but when it came to the second one, that is, where you were laying a foundation to put someone on the stand to contradict a witness then being cross-examined, that I was very particular in making you state just what was said and when and where, and who were present—don't you remember that?

Mr. Carrow: Yes, I do.

The Court: Well, I am just applying the rule the same way to Mr. Wolverton as I did to you yesterday, Mr. Carrow.

Mr. Carrow: Well, I thought, that I was required—I was held down to the place, time and person.

The Court: Well, Mr. Wolverton really did that, and you assented; if you had just let me have my way a little I would not have ruled that way. Now, you are not seeking to contradict the witness, as I understand it, except by a general question as to whether he did not say something at some other time different from what he is saying now—isn't that it, Mr. Wolverton?

The Prosecutor: Yes.

The Court: That is all; I will allow the question.

The Prosecutor: During the discussion I have found the exact question and answer.

The Court: All right, then, you can put it that way if you wish.

Q. Mr. Schuck, in this statement of November 10th, did you not state these words: "It was along Marlton Avenue, just before we got to Baird Avenue that Mr. Paul tried to scream, and it sounded very much to me as if Mr. James was trying to choke him"?

A. Yes, I did say that.

Q. Well, then, you were not so dumbfounded but what you knew what was going on in the back of the car, were you?

A. I wasn't at that time, not with him.

Q. In other words, you are not dumbfounded a bit when it comes to anything that Mr. James was doing, are you? Your recollection is very distinct?

A. On some things, yes.

Q. And although you were too dumbfounded when you left Penn Street to know how you get into Market——

A. Yes, positively.

Q. You are not too dumbfounded to know that James told you to go that way into Marlton Avenue and you were not so dumbfounded but what you can recollect that James was trying to choke Paul in the back of the car, are you?

A. I said it sounded that way.

Q. Now, if you were not so dumbfounded as to be unable to hear and know what was going on in the

back of the car, how does it happen that you were so dumbfounded that you did not know when you passed trolley cars or automobiles, or fire houses or people walking on the street, or vehicles?

A. Due to the fright and my nervous condition.

Q. Then the fright didn't affect you as to what you were hearing or saying in the car, but only what you were passing on the street?

A. I suppose.

Q. So that it was a kind of fright that only dulled certain senses, is that right? The sense of sight and not the sense of hearing?

A. Yes. Both, I guess. I don't know. I was too nervous and excited. I never will remember some of the things that happened.

Q. But you still had the sense of thought to do the things James told you to do?

A. Yes.

Q. Then if you still had your sense of thought, why didn't you think as to how you could get out of the car at the first moment possible?

A. Due to the fright and my nervous condition.

Q. But you still had the power of thought, didn't you?

A. I could remember him telling me those things, yes.

Q. And you still had the power of thought to do or not to do what he told you to do?

A. I did as he told me, yes, because I was frightened.

Q. If you had the power of thought to obey, why didn't you have the power of thought to disobey?

A. I don't know; I can't answer that question.

Q. You don't know, then, why you didn't see any trolley cars?

A. No.

Q. You don't know why you didn't stop at the Federal Street fire house?

A. I don't remember passing it.

Q. Now, then, is it true—after I have called this to your recollection about what you told me on November 10th—is it true that David Paul tried to scream as you went along Marlton Avenue?

A. It was along there somewhere. I don't know just where it was.

Q. And that James was trying to choke him?

A. I said it sounded as if he was.

Q. And it was just at that point, then, that you turned in to this most desolate place that you know of in the City of Camden, wasn't it?

A. Yes, right along there.

Q. And when you had run in half a square off of Marlton Pike into this desolate section you stopped the car?

A. Yes.

Q. Why didn't you stop the car on Marlton Avenue and ask James not to go further?

A. Why, because I was going to try to save the man's life by pleading.

Q. Save whose life?

A. Mr. Paul's life, by pleading.

Q. When did you make up your mind you would try to save his life?

Mr. Carrow: Won't you please allow the witness to answer the question?

(Previous question and answer repeated.)

A. I thought that Mr. Paul was dead, and when he started to talk out there, in a faint way, I was surprised, and it was then that I asked Mr. James to

stop beating him, pleaded with him not to beat him any more before it was too late, and he pointed the revolver at me and told me to drive on, he was desperate.

Q. When did you first make up your mind that you would try to save Dave Paul's life by pleading? Where were you then?

A. On Baird Avenue.

Q. What reason did you have for not stopping on Marlton Avenue when you heard Dave Paul trying to make an outcry, and, as you say, James trying to choke him? Why didn't you stop your car then and plead for him?

A. Because I hadn't thought of it then.

Q. You didn't think of saving Dave Paul's life on Marlton Avenue, then, but you did on Baird Avenue?

A. Yes, when I pleaded with Mr. James.

Q. You were not too dumbfounded to come to the thought that you would try to save his life by pleading, were you?

A. No.

Q. Then if you were not too dumbfounded on Baird Avenue, how is it you were not able to have that thought on Marlton Avenue, which is a far busier thoroughfare?

A. I don't know. On account of my nervousness, that is all I can say.

Q. How is it you didn't get the thought on Federal Street, which is still more of a busy thoroughfare?

A. I didn't know what I was doing on Federal Street.

Q. Then you didn't get the thoughts about Dave Paul until you got off of the busy thoroughfares and got into this desolate spot, did you?

A. No, because I was in a daze, dumbfounded.

Q. And you didn't get out of your daze until you got in this desolate spot?

A. First when Mr. James shouted to me to go out Marlton Avenue kind of brought me out of that daze.

Q. You said he told you to do that on Federal Street before you reached Marlton Avenue?

A. Yes.

Q. Federal Street is a pretty busy street?

A. Yes.

Q. Several lines of trolley cars running there?

A. Yes.

Q. Merchantville, Moorestown and Pensauken?

A. Yes.

Q. And automobiles and people? There aren't many busier streets in Camden than Federal Street, are there?

A. That is a busy street.

Q. And as he told you to turn into Marlton Avenue, you said you came out of your daze?

A. Yes, partly.

Q. Then you had your thoughts?

A. Not entirely.

Q. How much of your thoughts did you get at that time?

A. I don't know.

Q. Well, you got some of them? You recovered somewhat?

A. Yes.

Q. Sort of woke you up when he told you to go into Marlton Avenue?

A. Yes.

Q. Up to that you had been acting in a trance?

A. Yes.

Q. Directing the car by imagination, rather than by sight or sound?

A. I don't know what it was. I was too nervous.

Q. After you got to Marlton Avenue, then you were in possession of your faculties again?

A. A little bit, yes.

(At this point an adjournment was taken until Saturday morning, February 19, 1921, at 9.45 A. M.)

SIXTH DAY.

Camden, N. J., February 19, 1921.

Trial of the cause resumed at 9.45 o'clock A. M., on the above date, pursuant to adjournment, in the presence of the defendant and counsel for the respective parties.

The Court: Mr. Wolverton, you desire to continue the cross-examination of the defendant?

The Prosecutor: I do, yes.

The Court: Then, Mr. Schuck, will you re-take the witness stand?

RAYMOND W. SCHUCK, resumed in cross-examination.

By the Prosecutor:

Q. Mr. Schuck, yesterday afternoon when we finished you had said that when you reached Marlton Avenue and Federal, that you then realized what was being said and done, is that true?

A. That is when I came out of my daze, Mr. James hollered.

Q. That is when you came out of your daze; where did you go into the daze?

A. On Penn Street, when Mr. James pointed the revolver at me.

Q. Whereabout on Penn Street?

A. I don't know.

Q. How did you get from Penn Street to Market?

A. I don't know.

Q. Did you make this answer to me in the statement of November 7th: "Where, off of Cooper Street. A. No, off of Penn, it must have been on Seventh Street that I went through from Penn to Market." Is that true?

A. Well, I did not know then, I was only guessing.

Q. That statement was taken on November 7th; when you said it must have been Seventh Street, is there any doubt in your mind now that it was?

A. There was doubt in my mind then.

Q. So that as you went from Penn Street to Twenty-first and Federal you were in a daze so that you did not see anything, hear anything, or know what was going on?

A. I don't remember a thing.

Q. And how far this side of Marlton Avenue did you come to yourself?

A. I don't know, just before I got there, somewhere.

Q. What brought you to yourself?

A. Mr. James, when he hollered, "Go out Marlton Avenue."

Q. Then from that time on you were in full possession of your faculties?

A. Not entirely.

Q. What ones were you not in possession of?

A. I don't know.

Q. Could you see?

A. I don't remember.

Q. Could you hear?

A. Well, I wouldn't say for sure.

Q. Didn't you just tell me that you heard him tell you to go out Marlton Avenue?

A. Yes, I did.

Q. Then you were in possession of your faculty of hearing?

A. That was the way he hollered at me, it was so loud that I couldn't help from hearing it.

Q. Then were you in possession of your faculty of hearing or not?

A. I don't remember.

Q. You don't remember whether you could hear?

A. I don't remember.

Q. Then how do you remember that he told you to go out Marlton Avenue?

A. The way he hollered, it was so loud.

Q. You could not know that in any other way than by hearing it, could you?

A. No, I could not feel it.

Q. Then you must have heard it?

A. Certainly, I said I heard it.

Q. Then you were in possession of your faculty of hearing?

A. At that time.

Q. Did you lose it again?

A. I don't remember.

Q. Why do you say that you don't remember?

A. Why, I don't remember hearing anything afterward.

Q. You did not hear anything after that at all?

A. Not until we got to Baird Avenue.

Q. Then you heard again when you reached Baird Avenue?

A. I think it was on Baird Avenue.

Q. Then were you in possession of your faculty of hearing when you reached Baird Avenue?

A. I don't remember whether I was or not.

Q. Well, did you hear anything when you got to Baird Avenue?

A. Heard some noise in the back; Mr. James, I believe, was beating Mr. Paul.

Q. Then why, if you now testify to having heard that, why do you hesitate to say that you were in possession of your faculty of hearing?

A. Well, I was so nervous that day, I really did not know what was going on.

Q. Then is what you are testifying to now something that was told you by Mr. James?

A. No.

Q. This is something that you remember of your own recollection?

A. I remembered that next on Baird Avenue.

Q. And you heard it?

A. Yes.

Q. Then you were in possession of your faculty of hearing, weren't you?

A. Yes.

Q. Why did you say that you did not remember whether you were or not?

A. I don't know, because I was too nervous that day, I did not know what I was doing.

Q. Well, you were either in possession of it or you were not; why do you say you don't remember?

A. Well, I was in possession of it at that time.

Q. You were in possession of it—then why did you say a few minutes ago that you did not remember?

A. I don't know.

Q. Now, were you in possession of your faculty of seeing as you went along Marlton Avenue?

A. I don't remember whether I was or not.

Q. A moment ago you said you did not remember whether you had your faculty of hearing; can you now remember whether you had the faculty of seeing?

A. I remember seeing a sign across Marlton Pike.

Q. What was the sign?

A. A detour sign right above ——

Q. You remember seeing that, do you?

A. I remember seeing that.

Q. Then you were in possession of your faculty of seeing?

A. At that time I was, yes.

Q. Were you in possession of your faculty of speech?

A. I didn't say anything.

Q. What is it?

A. I didn't say anything along there.

Q. Did you say anything when you reached Baird Avenue?

A. Yes.

Q. Then you were in possession of your faculty of speech?

A. On Baird Avenue.

Q. Now, what faculty were you not in possession of?

A. Where, on Baird Avenue or Marlton Avenue?

Q. Either.

A. I don't know, I was too nervous that day, I don't remember.

Q. You had your faculty of sight, you had the faculty of hearing, and you had the faculty of speech; now what faculty did you not have? Did you have the ability to think?

A. That was only certain places.

Q. Did you have the ability to think?

A. Only on Baird Avenue.

Q. Did you have the ability to think on Federal Street when James told you to go out Marlton Avenue?

A. I must have had; I drove out Marlton Avenue.

Q. Then you had the ability to think as you went along Marlton Avenue, didn't you?

A. I don't know whether I did or not.

Q. Going along Marlton Avenue, when you saw the sign that said, "Detour," did you have the ability to think what that meant?

A. I must have had at that point.

Q. So that you were in possession of your faculty of thought?

A. At that point.

Q. Now, did you lose it at any other point?

A. I don't know, I was so nervous I did not know what I was doing.

Q. Now, what faculty did you not have?

A. Where?

Q. At Marlton Avenue.

A. What part of Marlton Avenue?

Q. At Baird Avenue.

A. I don't know, Mr. Wolverton, because I was too nervous.

Q. You said you did not know what you were doing; now, what faculty was missing that you did not know what you were doing?

A. I was dumbfounded, I don't know, lost, at all times.

Q. You were not too dumbfounded to go out Marlton Avenue when you were told?

A. No, it was the way he hollered at me that I went out ——

Q. You were not too dumbfounded to know Marlton Avenue when you came to it, were you?

A. It was the way he hollered that made me turn out there.

Q. You were not too dumbfounded to know that when a sign said, "Detour," it meant detour, to turn out, were you?

A. I don't know.

Q. You were not too dumbfounded to hear Paul making an outcry and James, as you said, trying to choke him, were you?

A. No, I remember that, because that was done in a loud voice.

Q. That was along Marlton Avenue, wasn't it?

A. I am not positive whether that was on Marlton Avenue or Baird Avenue.

Q. Did you not say to me in your statement of November 10th, "It was along Marlton Avenue just before we got to Baird Avenue that Mr. Paul tried to scream, and it sounded very much to me as if Mr. James was trying to choke him."

A. I think I said that at that time, but I was not positive.

Q. Is there anything that is not positive in the statement that I have read?

A. I heard on Baird Avenue Mr. Paul saying that, but at the time I made that I was not sure whether it was on Marlton Avenue or Baird Avenue, due to the condition of my nerves.

Q. If your nerves were such that you say you didn't know what you were doing, how have you come to the conclusion now that it was not on Marlton Avenue but Baird Avenue that you heard that?

A. I have had more time to think this thing over more clearly.

Q. Then you did not hear it on Marlton Avenue, as you say in this statement here?

A. I think it was on Baird Avenue.

Q. Then when you turned into Baird Avenue, what else did you hear said before the car was stopped?

A. Mr. James was beating Mr. Paul.

Q. Did you see it or did you hear it?

A. I heard it.

Q. Didn't you turn around to see what he was doing?

A. I was driving the car.

Q. Why didn't you stop the car?

A. I stopped the car after Mr. Paul hollered, "Help, help," in a faint way, "leave me out."

Q. Did you stop the car to help Mr. Paul?

A. I turned around and Frank had been beating him then, and I turned around to Frank and asked him for God's sake not to go any further.

Q. And did you have the car at a dead stop?

A. I believe it was.

Q. At a dead stop?

A. I think so.

Q. The engine stopped?

A. No, the motor was not stopped.

Q. Why didn't you stop the engine?

A. I did not think of it.

Q. Did it not require more thought to keep the engine going than it did to stop it?

A. I don't know, I was too nervous.

Q. If you had stopped the engine, you only had to shut off the gas, didn't you?

A. That wouldn't necessarily have stopped the motor from running.

Q. This is a Ford car?

A. Yes.

Q. To have stopped the car and keep the engine going, it was necessary for you to have shut off the gas, put your hand down and taken the brake, wasn't it, and brought it back?

A. To stop the motor?

Q. Yes, did you do that?

A. To stop the motor entirely?

Q. No, not to stop the motor, to stop the car—did you do it?

A. I don't think that I pulled that lever up.

Q. Then you kept your foot on the pedal and held it in neutral, did you?

A. I don't know, I am not positive, because I was too nervous.

Q. Tell me how you stop a Ford car and keep the engine running?

A. Put the clutch in neutral.

Q. Yes, did you use the clutch?

A. I don't know.

Q. This brake I refer to, isn't that ——

A. That is the handle?

Q. Yes,—you didn't use that?

A. I don't believe I did.

Q. Now, if the engine kept running, there was only one other way, and that was to have kept your foot on the pedal and kept it in neutral, wasn't it?

A. I suppose so, yes.

Q. Well, now, is there any other way?

A. No, I must have had it on there, because I can't remember pulling that lever up.

Q. Why did you stop the car and not stop the engine?

A. Why, I don't know.

Q. Did you expect to go on?

A. I didn't think a thing at that time, but just asking Mr. James to stop beating Mr. Paul.

Q. Then you didn't have any intention of going to the assistance of Mr. Paul when you did that, did you?

A. Why, no.

Q. What is it?

A. Only that I was pleading with Frank to stop.

Q. You didn't intend to do anything to make him stop, did you?

A. I was afraid of him.

Q. Well, if you were afraid of him, and he was busy beating Mr. Paul, why didn't you leave the car?

A. I was afraid he would shoot me.

Q. How could he shoot you and beat Mr. Paul at the same time?

A. He beat Mr. Paul very suddenly, all in a few seconds.

Q. Why didn't you leave while he was beating him?

A. Because if I had started to leave and he had picked up that revolver and shot me ——

Q. Then he didn't have any revolver in his hand when you turned around and he was beating Mr. Paul?

A. Things happened too sudden there, and I was too nervous.

Q. He didn't have any revolver in his hand then, did he?

A. He could not have had a revolver in his hand when he was beating Mr. Paul.

Q. And you were in the front seat?

A. Yes.

Q. Well, if he didn't have any revolver in his hand to do any harm to you, and was beating Mr. Paul, and you wanted him to stop, why didn't you pounce on him and stop him?

A. I was afraid of him.

Q. Why were you afraid of him?
A. Afraid he would shoot me.
Q. He did not have any gun in his hand?
A. He had it in the back.
Q. Did you see it?
A. Well, he had it in the back, because I know from the time ——
Q. Did you see it?
A. What?
Q. Did you see it?
A. He pointed the revolver at me ——
Q. Did you see it?

Mr. Carrow: Now, Mr. Wolverton, please.

The Court: No, that is proper cross-examination, the question is directed as to whether at this time to which the witness is testifying he saw the revolver.

Mr. Carrow: Yes, sir, I think the witness is endeavoring to answer that question by way of explanation.

The Court: Well, of course, he will be afforded an opportunity to answer it, Mr. Carrow.

(Question repeated.)

Q. Did you see it?
A. When he pointed it at me, I did.
Q. Then at the time he was beating Paul you didn't see any revolver, did you?
A. No.
Q. Then what reason did you have ——
A. I don't think I saw him deliver any blows.

Q. What reason did you have, then, for not leaving the car immediately and using your faculty of speech and calling out for help?

A. Because I was too nervous.

Q. Too nervous to run away?

A. Yes, I didn't know what I was doing.

Q. You were not too nervous to tell him to stop beating Paul, were you?

A. I remember asking him not to beat Mr. Paul.

Q. You were not too nervous or frightened to tell him that, were you?

A. I was very nervous at the time I told him.

Q. You were not too nervous to tell him that?

A. I was very nervous at the time I told him.

Q. But not too nervous to tell him to stop?

A. Well, I was very nervous at the time I told him that.

Q. But not too nervous to know what you were telling him?

A. I was very nervous.

Q. Did you know what you were telling him?

A. Yes, I asked him not to hit Mr. Paul.

Q. Then you were not so nervous but what you knew what you were saying and doing?

A. I was very nervous at the time.

Q. Then if you were not too nervous to tell him to stop what he was doing, why didn't you leave the car?

A. Because I was too nervous.

Q. How does it happen that you were not too nervous to tell him to stop, but too nervous to leave the car?

A. I don't know.

Q. Can you give any explanation of that?

A. No, sir; I don't know.

Q. Did you do anything to make him stop beating Paul?

A. I asked him to stop beating Mr. Paul.
Q. Is that all you did?
A. It is all I can remember.
Q. Where was Paul then?
A. In the back of the car.
Q. Where was his face?
A. I don't know.
Q. Was it looking up or was it looking down?
A. I don't know; I am not positive.
Q. Where was his head?
A. I don't know.
Q. Where was James?
A. In the back.
Q. Was he standing up or sitting down?
A. I don't remember.
Q. Did you see him beating Paul?
A. I heard him beating Mr. Paul.
Q. Did you see him beating Paul?
A. I don't remember whether I did or not.
Q. Have you not said so already this morning?
A. I am not certain about some of the things that happened, due to my nervous condition.
Q. Then are you certain that he pointed a gun at you?
A. I am not certain about any of that stuff, because I was too much ——
Q. You are not even certain about that, are you?
A. I don't know.
Q. Then why didn't you leave the car?
A. I was too nervous.
Q. Did it help your nervousness to stay in the car?
A. I don't know. I didn't think of those things at that time.
Q. You did think of some things?
A. Yes, I admitted to that.

Q. But how is it you didn't think of the important thing of helping Paul or else getting away?

A. I was too nervous.

Q. Were you afraid of yourself?

A. I didn't know what I was doing, I was so nervous.

Q. Were you afraid of yourself?

A. I didn't know what I was doing.

Q. Were you afraid?

A. I was afraid of Mr. James, yes.

Q. Why didn't you run away from the car, then?

A. For him to pick the revolver up and shoot me?

Q. You didn't see any revolver, did you?

A. He pointed the revolver at me after he beat Mr. Paul.

Q. Now you do remember that, do you?

A. Yes, that was enough to remember.

Q. A moment ago I asked you if you did and you said you didn't know. Which is right?

A. If I did what?

Q. Whether he had pointed a revolver at you, and you said you were not sure.

A. I don't believe I said that.

Q. Didn't you say that you were too nervous, you didn't know. That you were not sure of these facts, and did I not then say to you, "Well, are you sure of the fact that you saw a gun?" And you said, "No," did you not, just a few minutes ago?

A. When he was beating Mr. Paul.

Q. Then why didn't you leave the car then?

A. I was too nervous.

The Court: I think he has answered that question. I do not want to interrupt you, but he has answered and given his reasons why he did not leave the car.

The Prosecutor: Yes. I thought there was a misunderstanding between us.

Q. You say you were too nervous?
A. Yes, sir.
Q. Did you call out for help?
A. No, sir.
Q. Did you say anything more to Paul?
A. I didn't say anything to Mr. Paul.
Q. Did he say anything to either you or James?
A. He said something about "Help, help, leave me out Frank; you take the money, you know what to do."
Q. "You take the money." Where was the money then?
A. I think it was up at the front.
Q. When was the money put in the back?
A. Somewhere along the road Mr. James asked me ——
Q. Along what road?
A. I think it was Baird Avenue or Kaighn Avenue, I am not positive.
Q. Did you hear anything more from Paul after he had said, "Help, help."
A. No, sir.
Q. Not another word from him?
A. I can't remember hearing anything.
Q. Was that in a strong or feeble tone of voice?
A. I think it was feeble.
Q. Were there any further blows struck by either you or James after that, after leaving Forest Hill Park?
A. By either who?
Q. By either you or James?
A. There was no blows struck by me.
Q. Did James strike any?

A. After that?

Q. Yes.

A. I am not positive. I forget now whether he did or not.

Q. I mean after you left Forest Hill Park?

A. I forget whether he did or not.

Q. Did you not say to Mr. Parker that there were no blows struck after you left that point?

A. I do not know whether I did or not.

Q. On the Sunday that you went out there and showed the spot?

A. I don't know whether I did or not.

Q. Well, what you said to Mr. Parker, would that be true or would it not be true now, after you have had time to think about it?

A. When I made those statements I only had a slight recollection of things that occurred. I wasn't positive, but I was trying to give the best I could of what happened.

Q. Now that you have had more time to think, and as a result of that thought have changed some of your statements, do you wish to change as to that?

A. I am not positive about the things, because I was too nervous.

Q. Will you say whether any blows were struck after that or not?

A. I am not positive.

Q. Where did Frank James sit after you left the park?

A. He crawled over in the front somewhere.

Q. Where did he crawl in the front?

A. I can't remember just where it was.

Q. Was it before you left the park?

A. I think it was on Marlton Avenue that he crawled over in front.

Q. Was he in front with you when you saw your friend Hillman?

A. Yes, I think he was.

Q. Where did you see Hillman?

A. I believe it was between—somewhere between Browning Road and Ellisburg, on the Marlton Pike.

Q. Ellisburg is the outside point of Camden County, isn't it?

A. Four or five miles.

Q. And it was on the Camden City side of Ellisburg that you saw Hillman?

A. Yes.

Q. What was Hillman doing?

A. I don't know.

Q. Did you wave to him?

A. I don't know whether I waved or not.

Q. Did you speak to him?

A. I forget whether I spoke or nodded or whether I didn't.

Q. Was James sitting with you there?

A. I believe he was.

Q. Did James leave the front seat after that?

A. I don't think so.

Q. Well, then, there were no blows struck by James after he got in the front seat with you, were there?

A. No.

Q. Now, when you saw Hillman, you say you don't know whether you spoke or what you did. I read to you from the statement of November 7th to me. Did you not say this, "Oh, yes, I passed a man that I knew by the name of Bill Hillman, who was driving a team, and both Mr. James and I waved to him as he recognized us."

A. I wasn't certain whether we did or not.

Q. Are you certain now?

A. I can't remember whether we did or not.

Q. When you made that statement were you certain that you waved at him?

A. No.

Q. Is there anything in that statement to indicate that you were not certain?

A. I don't know.

Q. The language you have used was, "I waved to him as he recognized us."

A. Well, probably I said that, because I was always in the habit of waving to people when I saw them.

Q. Being in the habit of doing it, do you believe you did do it?

A. I am not positive whether I did or not.

Q. James was then sitting alongside of you?

A. Yes, sir.

Q. Did he speak to Hillman?

A. I don't know whether he did or not.

Q. What was Hillman doing?

A. I know there was a wagon or truck or something along there. I just forget what it was.

Q. How long have you known Bill Hillman?

A. I should judge about ten years.

Q. Friend of yours?

A. Yes, sir.

Q. Know him fairly well?

A. Yes, I know him fairly well.

Q. And you recognized him as your car was moving?

A. Yes. Just as I got ——

Q. And you either spoke to him or waved to him as you went by?

A. I think so, but I am not sure about it.

Q. And James was then sitting in the front with you?

A. Yes.

Q. Were you nervous?

A. Yes.

Q. Why didn't you stop the car and call to Hillman?

A. I was too nervous.

Q. Why were you too nervous?

A. Mr. James had crawled to the front and he had his left hand covered with blood and he still had that revolver in his right hand.

Q. Where was the left hand?

A. Up on the seat right alongside of me, and I asked him several times to put it away, it was making me sick, the sight of it.

Q. On the side toward Hillman?

A. Yes, I believe it was.

Q. Did that make you too nervous to stop the car?

A. I was very nervous all along the road.

Q. Were you too nervous to stop the car?

A. Yes, I was afraid of Mr. James.

Q. Then if you were so afraid of Mr. James, why didn't you stop the car right then and there, with Hillman?

A. Because I was too nervous.

Q. Did Mr. James want to drive the car?

A. I think, but I am not positive. I think he did ask.

Q. Didn't James ask you as you went along Marlton Pike to let him drive the car?

A. I am not positive, although I think I told you in that statement that he did want to.

Q. How is it you can remember now that you told Mr. Parker on November 6th that he did want to drive the car, after that lapse of time, and now don't recollect whether he wanted to drive the car or not?

A. Well, I am not positive, I wasn't sure at the time.

Q. Did you say this in answer to the question of Mr. Parker: "I was so nervous I could hardly drive

the car, so Frank jumped in the front and demanded me to let him drive the car and I wouldn't allow him." Did you use that language to Mr. Parker in answer to his question?

A. I may have said that.

Q. Did you use it?

A. If it is in that statement I must have said it.

Q. Now, if you were so nervous that you were afraid to stop the car to get Hillman to help you, how is it, then, you didn't let Mr. James drive the car when he wanted to?

A. I don't know. I don't know what I was doing that afternoon.

Q. You told me that you were too nervous to stop the car for Hillman, did you not?

A. Yes.

Q. Now, if you were too nervous to stop the car for Hillman, how is it that you were not too nervous to run the car?

A. I don't know. I don't know how I ever done it. I have often wondered myself how I ever managed it.

Q. What did James say to you when he said he wanted to drive the car?

A. I don't know. I forget now about that part of it.

Q. Did he ask you to let him drive the car?

A. I think he did, but I am not positive.

Q. Now, you said that James having his arm around you with this blood on his hand, that made you nervous and you asked him to take it down?

A. Yes.

Q. If you had permitted him to drive the car he would have had to have taken it down and moved over in your seat, wouldn't he?

A. Yes.

Q. To have done that the car would have had to have been stopped, wouldn't it?

A. I suppose so.

Q. Then you would have had an opportunity to have left the car while he was taking the other seat, would you not?

A. Yes.

Q. Why didn't you let him drive the car?

A. I don't know. It was due to my nervous condition and fright and everything.

Q. Then you were not too nervous to refuse James in his request to drive the car, were you?

A. I don't know what I was doing that day.

Q. You were not too nervous or afraid of him then to refuse his request, were you?

A. I don't know what I was doing that day. I can't tell you, because I was too nervous. I don't know what I was doing. I was simply dumbfounded, a wreck, that is all.

Q. You had nerve enough to refuse his request, didn't you?

A. I don't remember.

Q. What did you mean by these words, "And I would not allow him to"?

A. I don't know.

Q. Why didn't you allow him?

A. I don't know, I don't know why.

Q. What is it?

A. I don't know.

Q. What did you mean by these words, "So Frank jumped in front and demanded me to let him drive the car"? Was it so strong that you had to use the word "demand" to convey the meaning to Mr. Parker that you wanted to convey?

A. I don't know, I only had slight recollections of what happened that day, and probably it was only imagination more than anything else.

Q. What do you mean was imagination?

A. Why, of him wanting to drive the car. I didn't know what I was doing, I was so nervous.

Q. Do you mean to say now that this was only an imagination on your part when you told Mr. Parker that James demanded to drive the car and you said, "I would not allow him"?

A. Well, I was trying to give the details of the whole case all the way through, and there were some things that were wrong and some that weren't; lots of things I couldn't think of.

Q. Pardon me, had you finished?

A. Yes, sir, go ahead.

Q. Were those details imagination or facts?

A. What detail was that—what do you mean?

Q. That Mr. James demanded to drive the car and you would not allow him?

A. I don't remember anything about that now.

Q. Well, did it happen, or did it not happen?

A. I don't remember now whether it did or not.

Q. You say you don't remember whether James demanded of you to drive the car?

A. I don't remember now whether he did or not.

Q. Well, why did you say—have you thought about it just since you have been on the stand?

A. Thought about him driving?

Q. Yes, as to whether he did or not?

A. I don't remember.

Q. Didn't you just a moment ago tell me that you did not let him do it, because you were too nervous and did not know what you were doing?

A. Yes, I know he did not drive the car.

Q. Now, did you refuse him because you were too nervous or did it not happen at all?

A. Well, I can't remember anything like that being said, not at the present time.

Q. Now, you can't remember now whether James did demand to drive the car or not, can you?

A. Not at the present time I can't.

Q. And you can't remember that you said you would not allow him?

A. I could not; I don't remember that, no.

Q. You remember saying it to Mr. Parker, don't you, in this language, in the presence of the stenographer?

A. No, I don't remember saying that at all.

Q. Then why did you say, "If it is there I must have said it"? Is there any doubt in your mind that you did say it?

A. If it is there I must have said it, but I don't remember saying it.

Q. But you don't remember having said it?

A. No.

Q. Were you still in a trance on November 6th?

A. No.

Q. Then what difference was there in your attitude on November 6th and that on October 5th, if you could not remember on either day?

A. I don't know.

Q. Were you any different on November 6th than you were on October 5th?

A. Yes, a good bit.

Q. What was the difference?

A. Why, on October 5th I was very nervous.

Q. What is it?

A. I was very nervous, I did not know what I was doing; I don't know half the things that happened on that day.

Q. But you were not nervous on November 6th?

A. No, I don't think so, I may have been a little nervous.

Q. So that when you used that language you were in full possession of your faculties, your abilities, when you used those words to Mr. Parker?

A. Yes.

Q. And that was the best of your recollection at that time, was it not, of what happened?

A. Yes, it was the best at that time.

Q. Now, what has happened since that time, between then and the present, that causes you now to be doubtful whether it ever took place and it might have been imagination on your part?

A. Well, I just don't remember, that is all.

Q. Have you thought about it since then as you have been confined in the county jail?

A. Not about that, no.

Q. Then did you think about it before I asked you the question on the stand just now?

A. I don't think so.

Q. Then is it a quick judgment on your part—are you firm in the thought that it did not happen?

A. I am not positive.

Q. Will you say whether it did or did not?

A. I am not positive.

Q. Would your recollection on November 6th be better than at the present time?

A. Well, there were things happened up there that I don't remember.

Q. Would your recollection of what happened on October 5th as detailed by you on November 6th be better on that day than it is now?

A. I don't know.

Q. Was your memory better then or now?

A. About the trip, all the way through?

Q. Yes.

A. There are lots of things that I suppose I never will remember that happened then.

Q. Was your memory better then or now?
A. Why, it is better now.
Q. With a better memory now do you say whether that took place or did not take place?
A. What took place?
Q. That James demanded of you to drive the car and that you would not allow him?
A. I don't remember.
Q. Then your recollection is not as good now as it was on November 6th, is it?
A. I don't remember what happened on that trip that day.
Q. How can you remember the details at Marlton Avenue so distinctly, or Forest Hill so distinctly and you cannot remember this circumstance which happened a few minutes afterward?
A. I don't know, I was too nervous, I did not know what I was doing that day.
Q. As you went along the road did you talk to James?
A. I do not remember whether I did or not; I may have had something to say to him, but at the present time I don't remember.
Q. Where were you when you say James shot?
A. I think it was about two miles from Ellisburg, I think somewhere along there.
Q. It was this side of Ellisburg?
A. This side of Ellisburg.
Q. In Camden County?
A. In Camden County.
Q. Do you remember that fact?
A. Yes.
Q. You have never forgotten that?
A. No, and I never will.
Q. Your recollection is good today on that?
A. Yes.

Q. You would not want to change your statement of November 6th in that respect, would you?

A. No, I can remember that very well.

Q. Would you like to say that you don't remember whether that happened or not?

A. What happened?

Q. Whether James shot?

A. I know he shot.

Q. You know he did?

A. Yes.

Q. So that in that particular your statement of November 6th is right?

A. That he shot?

Q. Yes.

A. Yes.

Q. And your recollection on November 6th as to that circumstance was perfect on November 6th?

A. As to that, yes.

Q. And it is perfect today on that matter, isn't it?

A. Yes, and it always will be in my mind.

Q. Now, of the two, the meeting of Hillman and this shooting of Paul, which happened first?

A. I beg pardon, Mr. Wolverton.

Q. Which happened first, did you see Paul first or did James shoot—oh, did you see Hillman first or did James shoot first?

A. I think we saw Mr. Hillman first.

Q. How near together were they, the two occurrences?

A. Why, I don't remember how near it was.

Q. They were not over a mile apart, were they?

A. I don't think so.

Q. Then how is it that your recollection on November 6th when you gave a statement of this crime and today is perfect so far as what James did in shooting at Paul, but so far as seeing Hillman is concerned

and what took place between you and James as to driving the car it is not clear in your recollection?

A. That I just don't remember.

Q. You remember one detail perfectly?

A. Yes.

Q. The other one you say you don't?

A. Yes, sure; I say there are some things I remember and some I do not.

Q. So that your memory fails you as to the detail of James wanting to drive the car, but your memory serves you correctly as to James shooting Paul?

A. Yes.

Q. Can you give any reason for a lapse of memory of that kind?

A. No, sir.

Q. Now, the fact that you stated a correct statement in your statement of November 6th to Mr. Parker about James shooting Paul, does that help you to say that you must then have made a correct statement to Mr. Parker when you said that James demanded of you to drive the car and you would not allow it?

A. I do not remember that.

Q. Does not that help you to make up your mind?

A. No, sir.

Q. As you went along the road do you remember the conversation you had with James?

A. I may have had a conversation with him, but I do not remember at the present time.

Q. Where did you leave the Marlton Pike?

A. Where did we leave it?

Q. Where did you leave the Marlton Pike?

A. Why, we went through roads that day that I didn't know anything about; I didn't know the name of the roads.

Q. Did you go through Marlton?

A. I think we went through Ellisburg and Marlton.

Q. Did you go through Medford?

A. I don't believe so that day.

Q. What did you do when you came to Medford instead of going through it?

A. Mr. James told me it was a back road that went around it, in the back of it.

Q. Do you remember that little detail today that Mr. James told you to take a back road around Medford?

A. Yes.

Q. How is it that you can remember that little detail, and can't remember the one about him wanting to drive the car?

A. Well, I told you I could remember some things and some I couldn't.

Q. You can remember then that Mr. James wanted you to take a back road around Medford?

A. Yes.

Q. Did you do it?

A. Yes, cut out Medford.

Q. What did you say?

A. Around the back of Medford, I think he said it was in the back of Medford, cutting out Medford, or something like that.

Q. Then where did you go?

A. On up through a lot of country roads, lanes.

Q. And where did you finally reach?

A. Why, near a little stream, after about four miles or so, I don't know the distance, how far it was.

Q. To reach that little stream you had to leave the main road, didn't you?

A. I don't know.

Q. And go into a sandy road?

A. Yes, it was a sandy road.

Q. Very difficult to drive a car, wasn't it?

A. Yes.

Q. And the car made very slow progress?

A. Yes.

Q. And you passed farm houses as you went along, didn't you?

A. I don't remember whether I did or not.

Q. Do you mean to say that you remember the kind of road you were on, and that it was a sandy road, that made it almost impossible for you to pass along, and you did not see any farm houses as you passed?

A. I was not sight-seeing that day; I wasn't looking for farm houses.

Q. You were not sight-seeing?

A. No.

Q. There are some things you saw, though, weren't there?

A. Sure.

Q. Could you drive a car along a little, sandy, country road like is shown in this Exhibit 4 without seeing farm houses?

A. I don't remember passing it.

Q. Don't you remember passing any farm houses along Marlton Avenue?

A. I may have passed some, but I don't remember passing them.

Q. Did you pass through the town of Marlton?

A. I believe I did.

Q. Did you see houses there?

A. Yes.

Q. Did you see houses as you passed along the road back of Medford?

A. I don't remember whether I did or not.

Q. Did you see people as you passed through Marlton?

A. I don't remember seeing any one.

Q. Did you see anybody other than Hillman along Marlton Avenue?

A. He is about the only one that I know of.

Q. Did you see anybody after you left these back roads around Medford?

A. I can't remember seeing any one.

Q. Did you see anybody as you passed through Tabernacle?

A. I can't remember whether I did or not.

Q. Did you see anybody as you went into the little sandy road that took you into the pines?

A. I don't remember.

Q. Then from the time you left Market Street ferry until you got to this little spot in the pines you only saw one person and that was Bill Hillman, who testified in this case, isn't that right?

A. That is all I can remember, yes.

Q. Is that the only one you saw in that whole trip?

A. I think so; it is the only one I can remember at the present time.

Q. When you got to the spot, Irick's Causeway, what took place?

A. I don't know where that is.

Q. Where the body was buried?

A. Oh, why, things happened there that I can't remember, either. I think Mr. James got out and opened the door and pulled Mr. Paul's body out and started to drag it through the woods.

Q. How do you mean, he started to pull it out?

A. By the feet.

Q. Where were you?

A. In the car or outside, I just forget where I was.

Q. Where were you when James was pulling Paul's body out?

A. I don't know whether I was in the car now or outside. I haven't thought of all that stuff since.

Q. As whose suggestion was the car stopped?

A. Mr. James'.

Q. Did Mr. James tell you to stop it?

A. I believe he did.

Q. Did you obey him?

A. I stopped the car.

Q. Why didn't you obey him on Marlton Pike when he wanted to drive the car?

A. I don't know. I was afraid of him. Driving along there he had the revolver in his hand.

Q. You were afraid of him on Marlton Pike where your friend Hillman was, but you were not afraid of him in the pines where you had nobody, were you?

A. Yes, I was afraid of him.

Q. Did you get out of the car?

A. I don't remember.

Q. Did you see him get out of the car?

A. He got out and started through with Mr. Paul's body.

Q. And how was he getting it out of the car?

A. I think he was pulling it out by his feet.

Q. Did he pull it all the way out?

A. I believe so.

Q. How did he get it out of the body of the car to the ground?

A. Just pulled it out, I believe.

Q. You didn't help him?

A. Only when he was in the woods.

Q. Had he gotten the body in the woods before you helped him?

A. I think he had.

Q. How far in the woods?

A. I don't know the distance.

Q. Why did you help him there and not in getting the body out of the car?

A. Why, I told him I couldn't look at the man.

Q. Was it any easier to look at him in the woods than it was in the car?

A. I don't remember looking at him in the woods.

Q. Well, why was it necessary for you to help him in the woods and not help him to get him out of the car?

A. He said he couldn't drag him in through that brush, underbrush, or something like that.

Q. Did you then go to his assistance?

A. He told me to come in, that I would have to help him.

Q. Did you go in?

A. I went in, and if I am not mistaken he handed me Mr. Paul's foot.

Q. Do you remember him telling you to come in?

A. Yes.

Q. Do you remember him telling you to take a foot?

A. I am not positive about those things.

Q. What are you positive of?

A. I don't know. There was things happened up there that I can't remember because I was too nervous.

Q. You just tell me first the facts that you are positive of.

A. I know that Mr. Paul's body was put in there. I can't give you every little detail and movement and everything.

Q. Just give me such details as you feel positive of.

A. I am positive his body was put in there, that is all.

Q. Are you positive you helped put it in there? Are you positive?

A. That I helped put it in there?

Q. Yes.

A. I don't remember whether I did or not. I forget all about that part of it. I know that Mr. Paul's body was put in there, that is all.

Q. And you don't remember whether you helped pull it in or not?

A. No.

Q. If you can't remember whether you helped put the body in, how can you remember so distinctly that James put it in?

A. Well, I know that I didn't take the body in there, and Mr. James must have taken it in.

Q. Your idea is that if you didn't do it, James must have done it?

A. Why, sure.

Q. If you can't remember whether you did it or not, why do you say James must have done it?

A. Things I just don't remember that happened.

Q. Then you may have helped to put it in?

A. I may have, yes, but under my nervous condition I am not positive.

Q. But you are sure that James did it?

A. I know his body was put in there.

Q. How do you account for the fact that your memory is so good so far as Mr. James is concerned, but falters or fails when it concerns yourself?

A. I don't know.

Q. Is your memory better to remember what others do than what you do yourself?

A. I don't know.

Q. Is there any reason for you to remember what others do and not remember what you yourself would do?

A. I don't know.

Q. Now, if you can't remember how the body got in there, can you tell me another fact that you are sure of?

A. I forget what happened up there that day.

Q. You forget everything that happened up there that day?

A. Yes, most of it.

Q. You forget everything that happened up there, do you?

A. I can't think of what happened up there at the present time.

Q. Well, you have just testified the body got into the woods. You haven't forgotten that, have you?

A. No.

Q. Can you remember anything else that happened there that day?

A. I think that when Mr. James got in the car he had a wallet.

Q. He had a what?

A. He had a wallet or something, pocketbook or something.

Q. What was in the wallet?

A. I think there was some money in it that he took out and put in his pocket, and he started to read some stuff and tear it up and throw it along the road.

Q. Did he give you any of the money?

A. No, sir.

Q. Are you positive of that?

A. I can't say whether he did or not. I don't know whether he did or not.

Q. Mr. James in his testimony, which you heard, said there were three five-dollar bills in the wallet, that he gave you one of them. Did he do so or not?

A. I don't know. I won't say yes or no. I am not sure about it.

Q. You won't say either yes or no? You may have received it or you may not; is that right?

A. I don't know whether I did or not.

Q. But you do remember that he got a wallet and he got money; is that right—out of it?

A. Yes, because it was there.

Q. And you just said a minute ago you remember he put the money in his pocket, did you not?

A. Yes, he must have put it in his pocket.

Q. Were you positive when you said that?

A. No, I told you I wasn't positive of things that happened up there.

Q. Then you are not sure whether some of the money went into your pocket as well as his?

A. I am not positive about it.

Q. Well, why did you say in answer to my question a minute ago, when I asked you if you got any of the money, you sharply said, "No"?

A. I don't know, because I am not positive of what happened up there.

Q. Then why did you answer so positively, "No"?

A. Well, I don't know.

Q. Do you wish to change that positive answer of "No" and say that "I don't remember"?

A. I don't remember.

Q. Now, is there any other answer that you have given that was positive, either yes or no, that you would like to change and say "I don't remember"?

A. I don't remember things that happened up there.

Q. Who drove the car?

A. I was driving.

Q. What did Frank James do before he got into the car?

A. I forget now what he did.

Q. Did he throw cardboard away?

A. I think we were driving along at the time he threw that away.

Q. Did he tear pieces of cardboard off the left-hand door and throw them away?

A. I didn't see him do any of that.

Q. You say you didn't see him take pieces of cardboard off and throw them away?

A. I think he was in the back of the car doing—tearing up some stuff back there, ripping pieces off, tearing out isinglass.

Q. Then do you remember now that he did tear pieces off the left-hand door and throw them away?

A. I just have a slight recollection of it.

Q. Did you have a good recollection of it on November 10th?

A. I wasn't positive about those things.

Q. Didn't you testify yesterday in answer to a question by Mr. Carrow:

"Then what happened?

"A. Mr. James was in there for five minutes, I should judge, probably more, and then he come out and he had a wallet of Mr. Paul's, took some money out of it, put it in his pocket and started to read these things as I was driving up the road and tear them up and throw them out on the road.

"Q. Where did you go from there?

"A. We come back the same way. He was in the back of the car first tearing up things and tearing pasteboard and stuff off of the back door, threw the iron out, and in throwing the iron he broke the windshield."

Did you give that testimony yesterday?

A. Yes. I have a slight recollection of that.

Q. Yesterday you said as a fact that he did it. Today you say you have a slight recollection of it?

A. Yes.

Q. Now, is that recollection the truth or the fact that you testified to yesterday?

A. I just have a slight recollection of that, and that is all I had when I told that.

Q. Do you wish to say today that you are not positive whether he did it or not?

A. I am not positive about quite a number of things that happened that day.

Q. Are you positive of whether Frank James tore that off the left-hand door and threw it away? Are you positive or not?

A. I think he was in the back tearing those things off and throwing them out.

Q. If he didn't do it, who did do it?

A. Well, I know I didn't do it. I was driving the automobile.

Q. How is it you can be so positive you didn't do it and not certain whether he did it?

A. Because I was driving the automobile.

Q. There was nobody there but the two of you, was there?

A. I was driving the automobile.

Q. Was he in the front or the back?

A. He was in the back of the machine, and that is what I say, I don't know whether he—I just have a slight recollection of whether he tore them up or not and threw them out.

Q. Have you any recollection as to what you did in throwing things away?

A. Not that day.

Q. Did you throw anything away?

A. Not that day, I don't believe.

Q. Didn't you in answer to Mr. Parker's question on November 6th answer as I shall read:

"Q. And do you know who threw the pair of glasses and the case in the creek?

"A. Yes, I threw them in there."

A. Yes, but that wasn't on October 5th.

Q. What wasn't on October 5th?

A. About those glasses.

Q. When was that?

A. On the 14th.

Q. Where did you find the glasses on the 14th?

A. Along the road.

Q. Whereabouts on the road?

A. I think it was along the road or in the woods a little bit.

Q. Whereabouts on the road or in the woods? Now which was it?

A. I am not positive. It was either in the woods or along the road.

Q. What is it?

A. I am not positive whether it was on the road or in the woods.

Q. What made you throw them in the creek on the 14th?

A. I don't know. I just threw them in there, that is all.

Q. What is it?

A. I just threw them in there, that is all.

Q. Now you are positive today it was on the 14th that you threw them in?

A. I think it was on the 14th.

Q. How is it that you are positive today that it was on the 14th that you threw the eyeglasses in the creek?

A. What makes me think it was on the 14th, it was when Mr. Paul's body was being dragged up the road, I believe, that they fell out of his pocket or something, and when I came back I picked them up along the road—and yet I am not positive; I don't remember those things correctly.

Q. Are you positive whether it was on the 5th or the 14th?

A. I believe that was on the 14th that happened.

Q. What makes you think it was on the 14th?

A. I don't know. I am telling you I am not positive of it.

Q. Now, you were talking to Mr. Parker about what happened on the 5th of October, when he took this statement at the point that I read from just then, weren't you?

A. Well, probably we had been talking about the 5th of October, but probably I meant ——

Q. Suppose I take a few questions and answers before and a few after, for you to determine whether you told Mr. Parker it was October 5th or 14th. Now, do you remember which you told him it was?

Mr. Carrow: If your Honor please, I hardly think that would be fair to pin the witness down to a few questions before or after, because, as a matter of fact, the statement goes over the whole situation.

The Court: Well, Mr. Carrow, of course, if there is any question that Mr. Wolverton asks in cross-examination that you feel is unfair to the defendant, you will have a right, of course, on re-direct examination to straighten that matter out.

Q. "Q. And then next what was done? A. I stopped the car and he started to pull this fellow out, and I was sick to my stomach, so he told me I had to help him out, and he said I had to. He handed me Paul's foot and I could not look at him, so I pulled him out; so after he was in there we went back. Q. Where did you put him? A. Right where you showed me. Q. At the bridge where the water was? A. Yes. Q. And you carried him up and put him in the water? A. I don't know whether there was water there or not; I couldn't look at the man. Q. And do you know who threw the pair of

glasses and the case in the creek? A. Yes, I threw them in there. Q. And then after the body had been placed in the creek, you went on up the road? A. To that crossroad I showed you today. It was the second road I turned around and came back. Q. Who tore up the paper and threw it out? A. I know that Frank went through his pockets and took some stuff out, and I know he was tearing some stuff up. Q. And then you turned around and came back to Camden? A. No, we did not. Q. What did you do? A. To tell you the truth, Mr. Parker, I don't know where we went, but we got to the bungalow."

The Court: No, I don't think you read that exactly—"I don't how we went there," isn't it?

The Prosecutor: I beg your pardon?

The Court: Are you reading right from the evidence?

The Prosecutor: Yes, I read from the statement taken on November 6th by Mr. Parker which is in evidence in this case.

The Court: Well, my recollection of it was that the answer was, "I don't know how we went there." Is it different?

The Prosecutor: You see, there are two statements, I read the exact words in this statement.

The Court: Well, just read them again, because that is not the impression that I had.

The Prosecutor: It may be that your Honor may have in mind the statement of November 10th?

The Court: No, I haven't; I have in mind the statement to Mr. Parker of November 6th, and I thought the answer was, "I don't how we went there." (To the stenographer.) Just read what Mr. Wolverton read.

The Prosecutor: That was here, if your Honor please; I read that.

The Court: Oh, I didn't think you read it that way.

The Prosecutor: Well, if I did, I didn't know it. This is what it says here: "And then you turned around and came back to Camden? A. No, we didn't. Q. What did you do? A. To tell the truth, Mr. Parker, I don't know how we went there, but we got to the bungalow."

The Court: Yes, that is my recollection of it, but you did not read it that way first.

The Prosecutor: I think I did.

The Court: Will the stenographer read his notes?

(The record of the case in this particular was then read by the stenographer.)

Mr. Carrow: Now, if your Honor please, after the reading of these questions, it is absolutely clear that that statement, that question that was asked by Mr. Parker as to who threw the glasses in the creek has no direct bearing on the time set in the rest of the questions; he didn't ask him whether it was that day or some other day, or the defendant

did not say; he merely wanted to know who threw glasses into the creek.

The Court: Well, it bears the inference attributed to it by Mr. Wolverton; if it is not the correct date, why, of course, you will have an opportunity to re-examine on that, but I think the question is permissible. Now, you had better read the question to the witness whether he did or did not say that to Mr. Parker on November 6th; you had better read it all, Mr. Stenographer.

The Prosecutor: I will reframe it: Now, Mr. Schuck, after having read to you the questions a answers which you gave to Mr. Parker on November 6th in the presence of his stenographer, do you now say that it was the 5th of October that you threw the glasses away, or the 14th?

A. I believe it was the 14th.

Q. Then why did you tell him, as you were narrating what took place when the body was taken there—were you not then talking about what happened on October 5th?

A. Well, Mr. Parker did not ask me what date the glasses were thrown in there.

Q. Mr. Parker did ask you what was done, didn't he, after you got through with the body, didn't he?

A. Yes, I guess he did.

Q. What is it?

A. I suppose he did.

Q. And you were telling him, didn't you?

A. Yes, I told him the best I knew how or what came in my mind then, the best I could think of, of what happened.

Q. And when you told him that you did not know whether water was there or not, you were talking about the 5th of October, weren't you?

A. Yes, sir.

Q. And then the very next question was, "And do you know who threw the pair of glasses and the case in the creek?" Now, was he talking about the 5th or the 14th in your mind then?

A. Well, it is probable—I don't know whether he meant the 5th or the 14th at that time.

Q. You answered, "Yes, I threw them in there." Then the next question was, "And then after the body had been placed in the creek you went on up the road." Now, was he talking about the 5th or the 14th then?

A. That was on the 5th.

Q. So that the question before this about the glasses and your answer referred to the 5th of October, and the question and answer immediately after that relating to the eyeglasses related to the 5th of October, didn't it?

A. Yes, but I think I meant that they were thrown away on the 14th at that time, because he just simply asked me where they were thrown away, or something like that, and I believe I told him.

Q. When was the cardboard thrown away and the papers in the wallet?

A. On the 5th.

Q. That was the next question afterward, wasn't it, and answer?

A. Yes.

Q. So that the questions both before and after that relating to the eyeglasses were relating to what you did when the body was taken up there, weren't they?

A. Yes.

Q. So that at the time you gave that answer you had it in your mind that you threw the glasses away on the 5th of October, didn't you?

A. I don't know whether I did or not; I think that happened on the 14th.

Q. Now, what made you think now that it happened on October 14th?

A. I don't know; Mr. Parker and I may have been talking about the whole thing and the eyeglasses just come in his mind and he asked me about them and I told him I threw them in there.

Q. He afterward in the statement talked to you about the 14th, didn't he, the burial of the body, later on in the statement?

A. Yes, but he didn't ask me just when those glasses were thrown away, and whether it was the 5th or 14th.

Q. No, he didn't ask you that particular question, but he was asking you what you did there on October 5th, wasn't he?

A. At that time, yes.

Q. And the question and answer before, and the questions and answers after that related to the 5th of October, didn't they?

A. Yes.

Q. And you knew he was talking about the 5th of October?

A. At that time.

Q. And at that time you thought it was on the 5th of October that you threw the eyeglasses away, didn't you?

A. I don't know whether I meant the 5th.

Q. Did you think so at the time you made your statement?

A. I think that happened on the 14th.

Q. Did you think on the 6th of November when you made this statement that it had happened on the 5th of October?

A. I believe I meant that for the 14th. Mr. Parker didn't ask any date or day, and he wanted to know who threw them away, and I just simply said I threw them away.

Q. At that time did you think it was October 5th?

A. I don't believe I did.

Q. Well, you know—why is there any doubt in your mind as to whether you meant October 5th or the 14th?

A. I don't know.

Q. Are you positive now that it was October 14th or October 5th?

A. I have a slight recollection of that happening on the 14th, that I picked them up along the edge of the woods or along the road where Mr. James had been dragging the body with an automobile.

Q. Is that just a slight recollection or are you positive of it?

A. I am not positive of any of this stuff.

Q. Why did you pick them up out of the road and throw them in the creek?

A. I don't know why I did.

Q. As a matter of fact, was it not out of the car that you got them?

A. I don't believe so.

Q. Will you say that it was not?

A. I am not positive.

Q. Well, if you are not positive whether it was out of the car that you threw them or picked them up along the road, how can you be positive as to the date?

A. Well, on account of Mr. Paul's body being dragged along there with the car.

Q. Then you are positive it was on the 14th that you found them?

A. I think it was on the 14th.

Q. But you can't remember whether it was along the road or in the car that you found them?

A. I don't think it was in the car; I think it was along the road or in the woods.

Q. Well, is there any doubt in your mind?

A. Well, I don't know.

Q. You don't know?

A. No, I just have a slight——

Q. Then you would not be positive whether it was in the car or on the road?

A. I just have a slight recollection.

The Court: I think he has answered that question, Mr. Wolverton.

Q. You did not have Mr. Paul's body in the car on that day, did you?

A. On the 14th?

Q. Yes.

A. No, sir.

Q. How far up the road did you go?

A. What is that?

Q. With James after the body had been left at the creek, on October 5th, I am speaking of now?

A. I think that it was the second cross-road that I drove that day.

Q. Who drove the car?

A. I was driving.

Q. What was James doing?

A. I just have a slight recollection of him tearing things up.

Q. Did he throw them away?

A. Yes, out the side.

Q. Along the road as you went along?

A. Yes.

Q. Are these papers that have been produced here papers that were thrown away by him on that day?

A. I did not see the papers.

Q. That are offered as exhibits in this case?

A. I mean, at the time, up in the woods.

Q. Now then, when you reached the second cross-road did you turn the car around?

A. Yes.

Q. Then what did you o?

A. Went on back the same way, I don't know the roads. Mr. James asked where to put the money, or something like that, and asked if he could not put it in the bungalow, and I told him——

Q. Was there anything done as you came along the road that day?

A. The windshield was broke, the iron——

Q. How was that broken?

A. The iron that he used to hit Mr. Paul with he threw out of the car.

Q. Now, you are positive then that the iron was thrown away on October 5th, is that right?

A. I believe it was, yes, sure.

Q. But the eye glasses you are not sure about?

A. No.

Q. Are you sure that the cardboard was thrown away on that day?

A. He was in the back tearing some stuff up; I didn't know what it was, I was driving the car.

Q. As you came along the road, did you have any conversation?

A. Yes, there was something said, but I don't know what it was now; I was driving the car.

Q. Where did you drive the car to?

A. To the bungalow.

Q. Whose bungalow?

A. Mine.

Q. Where is it located?

A. At Clementon.

Q. What did you do when you got to the bungalow?

A. Went in and looked around and went upstairs. Mr. James opened the package, I think, and he had two slips there, one was $35,000 and another one had five thousand in it.

Q. Where was the car?

A. That was standing between two other bungalows about a square from this one.

Q. Who went upstairs first?

A. I forget now which one.

Q. What was the reason for going upstairs?

A. I don't know, other than probably looking for a place to put the money.

Q. Did you stop at any time downstairs?

A. I can't remember now whether I did or not.

Q. Did you both go in together?

A. I went over first, I think.

Q. You went to the bungalow first?

A. I believe so, yes.

Q. Where did you leave James?

A. He was standing over by the car.

Q. Where was the car?

A. Between the two bungalows, about a square from my bungalow.

Q. Why was the car left a square away from your bungalow while you went over to it?

A. He wanted me to go see if anybody was around.

Q. So that you left James and the car with the money in it a square away from your bungalow, is that right?

A. Yes.

Q. Then you went over to the bungalow to see whether anybody was in there?

A. Yes.

Q. And James remained where the car was?

A. No, I think he came in the bungalow while I was there.

Q. How long had you been in there before he came?

A. I don't know how long.

Q. Was there anyone in the bungalow when you got there?

A. No, sir.

Q. Then you went to the bungalow and left James a square away?

A. Yes.

Q. And what did you do when you went in the bungalow?

A. I forget now what I did do.

Q. Did you go upstairs?

A. I don't just remember whether I went up or not.

Q. You went there to see whether anyone was there, didn't you?

A. Yes.

Q. Did you call for James to come?

A. I forget now whether I did or not.

Q. Did you whistle?

A. I don't think so.

Q. But James came?

A. He came over to the bungalow, he got in the bungalow, but I just forget how.

Q. Did he bring the money or did you carry it?

A. Mr. James carried it.

Q. Then when he came with the package of money where did you go?

A. Upstairs, I think.

Q. After you had gotten upstairs, where did you sit?

A. I think on the bed, but I am not positive.

Q. Is the bed near the front window?

A. Yes, sir, a little bit.

Q. Both of you sat on the bed?

A. I don't remember whether he or I sat on the bed or not.

Q. Who opened the package?

A. Mr. James opened it.

Q. Where were you when he opened it?

A. Upstairs or downstairs. I don't know where I was.

Q. Did you see him open the package?

A. I don't remember.

Q. Well, you have testified that he opened the package. Yesterday in answer to Mr. Carrow's question did you not say, "Then what happened," did you not say, "Went upstairs with the package and he took the paper off and he called me up and he says"—— Is that right?

A. Well, that was only a slight recollection. I am not positive about these things.

Q. Then you are not positive who opened the package, are you?

A. I know that Mr. James had those two slips, because I remember him saying, "Ray, Mr. Paul told me he carried $30,000, but this package has got $40,000 in," he says. "Here is one slip for $35,000 and one for $5,000," or something like that. I just can't remember correctly what conversation took place.

Q. Have you finished?

A. Yes, sir.

Q. Did you see the slips?

A. I think he showed them to me.

Q. Did you see the money?

A. Yes.

Q. What kind of money was it?

A. What denominations, you mean?

Q. Yes.

A. Twenty dollar bills and fives, that is all I can remember. There may have been some ones and tens.

Q. How was it made up?

A. I think the twenties was made up in five hundred dollars packages with bands around, $500 in twenty dollar bills, or something like that, and the other——

Q. And is this money which we have in court here, amounting to $34,880, a part of the money that was taken?

A. Is that the money that I recovered for the authorities?

Q. Yes.

A. Then that is it.

Q. Then that is the money that was taken from Mr. Paul, is it?

A. If that is the money that I recovered for the authorities, yes.

Q. Well, I will give you my word that it is. So that that money that you dug at the cemetery was the money that you had taken from Mr. Paul?

A. That is what he had with him that day.

Q. Well, is there any doubt that that is the money that was taken away from him?

A. No, Mr. Wolverton.

Q. Why did you make that kind of an answer, "That is the money he had with him that day," instead of answering my question, "Is that the money that was taken away from him"?

A. Well, all money looks alike to me, but I don't mean by saying that, that you or any of the authorities would change it or steal it.

Q. It would be a good bit for the ordinary authority to change, wouldn't it?

A. I suppose——

Q. Why did you make that change in the question that I asked? I asked you if that was the money that was taken from Mr. Paul, and you answered it, "That is the money he had that day." Was there any reason for that?

A. No. I will take your word that it is.

Q. Mr. Schuck, did you count the packages of money in the bungalow?

A. No, sir.

Q. Who did?

A. I don't believe it was counted. I don't know. I am not positive about these things.

Q. Did either of you take any money at that point?

A. I think Mr. James took some and give me some money there, but I don't know how much.

Q. How much did you get?

A. I don't know how much he give me.

Q. Did you count it?

A. No.

Q. It was done up in packages, wasn't it, $500 in a package?

A. Yes, five, and I think there was some packages —I think the five dollar bills was made up in $250 packages.

Q. Which packages did he give you, the 500 or the 250?

A. I don't remember.

Q. It was in big, bold type, wasn't it?

A. Yes, but I don't remember what it was.

Q. Was it more than one package?

A. I am not positive about that.

Q. Couldn't you remember by the size of it, the difficulty you would have to get it into your clothes, your pockets?

A. No, I don't remember that.

Q. Do you know how much he took?

A. No, sir.

Q. Now, after you got some of the money and he got some of the money, then what did you do?

A. He decided it wasn't a safe place to leave the money there.

Q. What brought you to that decision?

A. I don't know. That was his idea of it. He didn't think it was safe.

Q. What led you to that decision?

A. He didn't think it was a safe place to leave it.

Q. Where had you thought of leaving it?

A. There hadn't been anything said then that I can remember.

Q. Had you talked about what part of the bungalow you would hide it, or outside of the bungalow?

A. I don't know. I can't remember.

Q. Had you looked for any hiding place in the bungalow?

A. I don't remember whether we did or not.

Q. Well, then, what made the remark that it isn't a safe place if you didn't make any effort to find a hiding place?

A. I don't know.

Q. Was it because others might come to the bungalow?

A. I don't know what the reason was.

Q. Did he ask you if he could take it to the bungalow or did you tell him to take it there?

A. I think he asked me.

Q. Did you give your consent for it to be taken there?

A. I said something to him, but I don't remember what it was.

Q. Was this answer given by you to Mr. Parker on November 6th: "Well, he asked me where he could put the money, and I said, 'I don't know,' and he said, 'How about the bungalow,' and I said he could do what he wanted, and he then changed his mind and said it wouldn't be safe to hide it there."

A. He may have said that.

Q. Did you say he could do it if he wanted to?

A. I forget whether I did or not.

Q. How long were you at the bungalow?

A. It may have been five minutes or more; maybe ten minutes fifteen minutes.

Q. Did you have any conversation with him in the bungalow?

A. I think there was something said.

Q. What?

A. I don't remember.

Q. Don't remember anything that was said in the bungalow?

A. I don't remember what was said.

Q. Mr. Schuck, if you do not remember what was said in the bungalow by Mr. James and yourself, today, how could you have testified yesterday in answer to the question of your counsel, "Then what happened?"—This is the answer: "Went upstairs with the package and he took the paper off and he called me up and he said, 'Ray, I thought there was 30,000 here,' he said, 'but here is a slip, one of them says thirty-five and the other is five thousand.' He says, 'There is $20,000.' He says, 'If you will keep your mouth shut I will give you $20,000.' "

A. Well, that was said somewhere, but I am not positive whether it was said just then.

Q. You testified yesterday that he called you upstairs, did you not, and told you that there was a

package with 35,000 and 5,000, which made 40,000, and that 20,000 of it was yours if you kept your mouth shut did you not?

A. That was said, but I don't remember whether it was there or not.

Q. Pardon me?

A. I said that yesterday, yes, but at the time I said it——

Q. And you said it happened upstairs when he called you there?

A. I am not positive. I know it was said somewhere, but I don't know whether it was said up there or not.

Q. Was there any doubt in your testimony yesterday when you gave it?

A. Yes.

Q. Where is the doubt? What did you say to indicate a doubt?

A. I don't know. Things happened that I cannot remember correctly. I know it was said somewhere.

Q. Is the language I have used taken from the stenographer's notes the true language that you used yesterday?

The Court: I think he said it was.

Q. Was there any doubt in your mind when you gave that testimony yesterday?

A. As said before, there is doubt about things that happened all along. I am only trying to think the best I can of what was said.

Q. Was there any doubt in your mind as to that statement yesterday when you gave it?

A. I am not positive what was said at certain places, but I remember it was said somewhere. I am

not positive whether it was at the bungalow or out of the bungalow or where it was, but I know it was said.

Q. If you are not positive today where it was said, how could you be positive yesterday where it was said?

A. Well, I know it was said but I am not positive whether it was said at the bungalow or not.

Q. When did it come to your mind for the first time that he had made an offer to you of $20,000 if you would keep your mouth shut?

A. It was down there somewhere. I don't know whether it was in the bungalow or not.

Q. Did you have it in your mind on October 23rd when you talked to me at my office, or Mr. Straw at my office?

A. What about, the money?

Q. That he had offered you $20,000 to keep quiet?

A. I don't remember at that time.

Q. You hadn't remembered it at that time, is that what you mean?

A. I don't remember it at that time.

Q. You don't remember it at that time?

A. I don't think I thought of it at that time.

Q. Did you remember it the evening that I talked with you in my office before you went to Mt. Holly?

A. I didn't think of it. I don't think that I thought of it at that time.

Q. When Mr. Parker took your statement on November 5th, when you wanted to know what charge was against you after you had been ordered detained by the Burlington County grand jury, did you remember then that he had offered you $20,000 to keep your mouth shut?

A. I don't remember whether I thought of it at that time or not.

Q. On November 6th, when you made this statement to Mr. Parker as to this crime, did you remember then that he had offered you $20,000 to keep your mouth shut?

A. At some place, but I don't remember just where it was.

Q. Did you remember it when that statement was taken?

A. At some place.

Q. Did you say anything to Mr. Parker about it in the statement? 10

A. I don't know whether I did or not.

Q. Did you remember it and have it in your mind at that time, that you could have said it if you wanted to?

A. I don't remember.

Q. Do you mean to say that you are not sure now whether you had thought of it on that occasion?

A. I know that he made that offer, but I just forget just where it was.

Q. When did you first recollect that he had made such an offer as that? 20

A. I don't know.

Q. Did you recollect him having made such an offer as that——

A. He made it some place.

Q. —— on November 7th, when you made another statement to me at the Mt. Holly jail?

A. I don't know.

Q. Did you remember it on November 10th, when I took your statement at the Mt. Holly jail, which has been offered in evidence? 30

A. I don't know.

Q. Did you have it in mind when you went with the officers on the Sunday, November 7th?

A. I don't know whether I did or not.

Q. Did you have it in mind at any time that you have ever talked to any official in connection with this case?

A. I don't know whether I did or not.

Q. Did you have it in mind when you said in answer to Dr. Ely's question, "If you had the sockfull I have you wouldn't have to work either?" Did you have it in mind then?

A. I don't remember saying that.

Q. Did you have it in mind at any single time that you have talked to any official in connection with this case?

A. I know that he said it, but I don't remember having it in mind on those different occasions.

Q. Then if you didn't have it in mind on any of those occasions, when did it first come to your recollection that he had made such an offer as that?

A. Only that I know he made the offer.

Q. Well, when did you first remember that he had made the offer?

A. I know that he made the offer down there somewhere, but I don't know just where.

The Court: The question is, when did you first remember it?

(Question repeated.)

A. I don't know, Mr. Wolverton, where it was.

Q. To whom did you tell it? Who was the first person to whom you told it, that James had offered you $20,000 to keep your mouth shut?

A. I don't know whether it was Mr. Parker or you.

Q. To me?

A. Do you mean when I was making my statements?

Q. Yes. Did you at any time ever make such a statement as that to Mr. Parker or to me before you made it on the stand yesterday?

A. I don't know whether I did or not.

Q. Do you mean to say that you think you spoke of it before yesterday on the stand?

A. In my statements?

Q. Yes.

A. I don't know whether I did or not. I am not positive. If I didn't put that in my statements, I know that he offered me $20, but I don't know whether I put it in my statements or not.

Q. In answer to my previous questions you said you don't know whether you remembered it when those statements were made. When do you remember for the first time that this $20,000 was offered to you?

A. I don't know.

Q. Did you remember it any time between October 5th and November 10th?

A. I probably had been thinking about it.

Q. Did you think about it during that time?

A. I may have been thinking of it.

Q. Then if you had been thinking of it between October 5th and November 10th, why didn't you so state in your statements that were taken?

A. I don't know why I didn't put it in there.

Q. When did you first think to speak of it after November 10th, and to whom was the first person that you mentioned it?

A. I don't know. I am not positive whether I put it in my statements or not.

Q. Do you know to whom you told it before you went on the stand?

The Court: I think he answered that. I think he has answered that, Mr. Wolverton. I think he said that he did not know.

Q. And you have no distinct recollection then as to when it came to your mind or to whom you first told it, have you?

A. No.

Q. What did you say to him when he made the offer of $20,000 to you?

A. I forget now what I did say to him.

Q. Did you take the $20,000?

A. No, sir, the money was never——

Q. What?

A. The money was never divided.

Q. But you each took some?

A. He gave me some at the bungalow.

Q. Did you not make any reply to him when he offered you the $20,000 to keep your mouth shut?

A. I don't know whether I did or not, at the present time I don't remember it.

Q. Then you left the bungalow after this offer had been made to you?

A. Yes, sir.

Q. Then the offer was made in the bungalow, was it?

A. We left the bungalow, but I don't know whether the offer was made there or not, I am not positive of that.

Q. Then where did you go?

A. To North Woodbury.

Q. What did you do when you reached North Woodbury?

A. Mr. James went in and used the telephone, at the North Woodbury railroad station.

Q. What is it?

A. He went in to use the telephone at the North Woodbury railroad station.

Q. Where were you?

A. Out in the machine.

Q. Who was driving the car?

A. I think I was driving it.

Q. Where was the money?

A. I think it was in the machine, in the back somewhere.

Q. What was to prevent you from going off with the car and money and reporting it immediately?

A. Mr. James had told me that if I squealed on him, that he would incriminate me in the crime as bad as he was in it, or mix me up in the mess as bad as he was in it.

Q. Where had you been when he told you that?

A. Somewhere along the road or in the bungalow, I don't know where it was.

Q. Which road?

A. I don't know.

Q. Was that after he had offered the $20,000?

A. I don't know whether it was after or before.

Q. Do you remember that he did make that suggestion to you?

A. What, about the $20,000?

Q. Yes.

A. He did make it some place.

Q. And you remember he made the suggestion about squealing?

A. Yes.

Q. And it was before you reached North Woodbury?

A. I believe it was.

Q. And it was either at the bungalow or on the road?

A. One place or the other.

Q. And that is the first time that he had said to you that he would drag you into it?

A. He had said different times—I don't know whether he told me several times before that or not.

Q. Well, if you had remembered it you would have told us, wouldn't you, when I asked you the question what you talked about on your way back from the pines to the bungalow?

A. Well, I don't know; I know that——

Q. Didn't you tell me that you did not——

Mr. Carrow: Now, wait.

Q. I beg your pardon—is there anything further?

A. I know he made that threat several times, that I was the only one that knew anything about it, and if I squealed on him he would mix me up in the mess as bad as he was in it.

Q. All right; now where did you have that conversation with him?

A. I don't know where it was.

Q. In answer to my questions, I asked you what you talked about on your way back from the pines to the bungalow, and you said you did not remember; you remembered talking but you did not know what you talked about. Now, is that right?

A. Yes.

Q. Then it must have been made after you left the bungalow, wasn't it?

A. I am not positive.

Q. Well, if it wasn't before it must have been after, wasn't it?

A. Well, I don't know.

Q. Well, working on the same principle that if Paul's body was in the woods and you did not take it, Frank must have taken it in there, would you

not work on the same principle that if he did not say it before you got to the bungalow it must have been afterward?

A. I don't know where it was.

Q. Was it before or after you got to the bungalow?

The Court: I think he has answered that, Mr. Wolverton; he says he don't know where it was.

Q. Very well; now then, you had an opportunity at the bungalow to have run away, didn't you, and gotten away from this man, if you had wanted to?

A. Yes.

Q. Why didn't you do it?

A. Well, on account of him trying to incriminate me or threatening——

Q. What is it?

A. On account of him threatening to incriminate me in it.

Q. Now, you just said you did not remember where he had done it?

A. Well, neither I do; I don't know whether——

Q. How can you say that kept you from running away at the bungalow if you had an opportunity?

A. Then he must have said it before I got there then.

Q. Oh, now you think he must have said it before then?

A. For it was on my mind, I know.

Q. Then he must have said it before?

A. He must have said it before.

Q. And with him a square away and you alone in the bungalow in that district you did not make any effort to get away from him?

A. I think that was said before we got up in the pines, somewhere on our way along Marlton Ave-

nue, or up through the pines, but I am not positive about it, but I know it was said.

Q. Now then, you remembered it when I asked you this morning as to what you talked about on your way up to the pines, and you said you couldn't remember?

A. Well, I didn't at that time.

Q. But now you do?

A. I know it was said along there somewhere, but I don't know just where it was.

Q. Now, after you got to the telephone station at North Woodbury, he went inside to telephone, is that right?

A. Yes, sir.

Q. And you were in full control of the car and the money outside?

A. Yes, sir.

Q. How long was he in there?

A. I don't know how long.

Q. There was nothing then to have stopped you from going if you had wanted to, was there?

A. Only the threat that he would mix me up in it.

Q. There was nothing to have stopped you from going, was there?

A. No.

Q. Where did you go from there?

A. Westville.

Q. For what purpose?

A. Mr. James bought a shirt and collar in a store there.

Q. Did you go in with him?

A. No, sir.

Q. Where did you stay?

A. In the machine.

Q. Where was the money?

A. In the machine.
Q. Did you start to go in the store with him?
A. I think I did.
Q. Why didn't you go in?
A. I think Mr. James passed the remark that I was too nervous or upset, or something like that.
Q. So you went back and got in the car, did you?
A. I was in the machine.
Q. There was nothing to have stopped you from driving away there, was there, with the money?
A. Only that he would mix me up in it.
Q. Just answer my question; was there anything to have stopped you from running away?

Mr. Carrow: If your Honor please, I think the witness was answering it.

The Court: Mr. Wolverton, I guess you did not hear all the answer. He said, "Only to mix me up in it," I think was the answer—"Only that he would mix me up in it."

Q. That was all—that was the only thing that stopped you from running away?
A. That was the thing that stopped me; I didn't want to get mixed up in a murder if I could help it.
Q. And you had an opportunity, if you had wanted to, didn't you?
A. Yes, only for that one reason.
Q. And you could have returned the money to the Broadway Trust Company where it belonged, couldn't you?
A. I did.
Q. You could have returned it then, couldn't you?
A. Yes, if it wasn't for that reason.
Q. And you could have reported it to a police official then, couldn't you?

A. Yes, if it wasn't for that one reason.

Q. Where did you go after that?

A. To Camden.

Q. What was said about the money then?

A. I think I suggested taking it to my house, or he passed the remark he was going to put it in his home or something, or his wife's home, something like that.

Q. Yes, and what did you say?

A. And he couldn't put it there; and then we went on to Camden to my house.

Q. Why did you go on to Camden?

A. I think he wanted to go to a tailor's and get a suit, that is the reason why we went to Camden.

Q. Why didn't you go to his home with the money?

A. I believe he said his wife was home and he could not go home.

Q. Then what did you say?

A. I don't remember what I did say.

Q. What did he say?

A. I think something was said about going to the tailor's for his suit; I think that was the sole purpose of us going to Camden, to get his suit at that time.

Q. When you left the bungalow, where did you intend to hide the money?

A. I don't know, there was something said about it, but I just can't remember what it was now.

Q. Was there any effort made to hide it at his home?

A. I don't believe there was.

Q. Well then, how did it finally get to your house after leaving your bungalow in Clementon?

A. Why, we took it there.

Q. Who took it there?

A. Both of us.

Q. How did you happen to select your house?

A. I don't know.

Q. What do you mean, you don't know?

A. I think he wanted to go to my house to wash up or do something.

Q. To do what?

A. To wash up or change his clothes, or something like that.

Q. Had you talked about taking the money there to be hidden?

A. I don't know now whether we did or not.

Q. In your statement to Mr. Parker of November 6th, didn't you make this answer to this question by Mr. Parker: "Q. When you got back to this bungalow, what, if anything, was done with the money? A. Well, he asked me where he could put the money, and I said, 'I don't know,' and he said, 'How about the bungalow?' And I said he could do what he wanted, and he then changed his mind and thought it wouldn't be safe to hide it there. Q. How long did you stay at the bungalow? A. I don't believe we were there ten minutes. Q. And then where did you go? A. Right back to Camden. Q. To where? A. Oh, he said something about he would hide it at my home and I recalled that my wife would be out and we would take it to my home." Now, is that true?

A. Yes, I remember saying that now at that time.

Q. Then you recalled that your wife would not be home and then you suggested to him to take it to your home in Camden, is that right—is that right?

A. I think I did say that at that time.

Q. Why did you suggest to him that your wife was away and that you would take it to your home after having left your bungalow in Clementon?

A. Probably because he wanted a place to hide it, see.

Q. And you recalled that your wife would be out, didn't you?

A. I was not sure at the time I told him whether she would be out or not; she usually went to the movies at night.

Q. Why did you recall the fact to him that your wife would be out and that your house would be a good hiding place for that reason?

A. I don't know.

Q. He did not know whether your wife would be out or not until you suggested it, did he?

A. I don't know.

Q. Well, you knew she would be likely to be out, didn't you?

A. I wasn't positive.

Q. Well, you thought that it would be a good place to take it, didn't you, for the reason that you thought she would be out—is that right?

A. I don't know about that; I don't remember those things.

Q. Why did you communicate this suggestion to James that your wife would be out and that it would be a good place to take it, to your house?

A. I don't know, only—other than he was looking for a place to put it until he found a place to put it, or something like that.

Q. Then you wanted to help him to find a safe hiding place for it, did you?

A. I don't know whether I did at the time or not.

Q. So that after this money was taken to your bungalow and it was not thought to be a safe hiding place, at your suggestion it was then taken to your home in Camden where it was hid, is that right?

A. It was hid there, yes.

Q. Now, where did you go with the money when you came in with it, into your house?

A. I think it was upstairs first.

Q. What did you do when you went upstairs with the money?

A. I think the money was out on the floor all loose, and we were tying it up, or something, I just can't remember.

Q. Who opened the package?

A. The package had been opened at the bungalow.

Q. Well, had it been tied up at the bungalow?

A. I don't know whether it was or not.

Q. Well, you had the money with you in the automobile; didn't you see whether it was tied up or whether it was loose?

A. Mr. James put the money in the back of the automobile, I believe, underneath the back seat, and I don't know whether it was tied up then or not.

Q. So that when you were at North Woodbury station and at Westville with the money in the car it was under the back seat?

A. I think it was.

Q. You don't remember whether it was tied up or not?

A. No, I don't.

Q. Were the wrappers still on it?

A. I think they were, yes, sir.

Q. Who took the wrappers off?

A. I took the wrappers off.

Q. Why?

A. Why, I endeavored to count the money one day, I was going to return it to the Broadway Trust Company, and I wanted to see how much money was there, and I believe I started to count, and several of the packages were short, and then I did not know but what more of them might be short, so I took all the wrappers of them off.

Q. What did you do with the wrappers?

A. Burned them up down the cellar.

Q. Why did you burn them up?

A. I did not know what else to do with them.

Q. Did you think it was necessary to burn them up so they would not be seen?

A. I suppose I did at the time, but I am not positive; I just burned them up, that is all.

Q. Well, if it was your intention to return what money you had to the Broadway Trust Company what difference would it make how much money it was, if you were going to return it all.

A. I wanted to find out how much money was there.

Q. You had seen on the slips how much was there, hadn't you?

A. Well, I just said—well, we had spent some, see, in Phiadelphia.

Q. You had spent some; so then the wrappers were not taken off the first day you took the money to your house?

A. They were taken off on the 11th of October. I believe.

Q. That was the day you buried the money, wasn't it?

A. Yes.

Q. And did you take them off with the idea of when they were buried there would be nothing there to identify the money with if it were found?

A. No, sir.

Q. Well, then what reason would you have for taking them off?

A. I told you the reason.

Q. If you wanted to return all of the money to the Broadway Trust Company, what difference would it make what the amount was or whether it

was wrapped up or whether the bundles were right or wrong?

A. I just wanted to see how much was there, that is all, and how much money had gone, that we spent in Philadelphia, something like that.

Q. Couldn't you see how much was there without taking the wrappers off and destroying them by burning them up?

A. No.

Q. Why not?

A. I told you that several of them, several of these packages were short.

Q. Well, these wrappers are just little bands of paper, aren't they, about a half or three-quarters of an inch in width?

A. Yes.

Q. And they have in large numerals, figures, the amount that is supposed to be in that package?

A. Yes.

Q. Wouldn't it have been a very proper thing, if you had wanted to return the money, to have counted each package and seen whether it was right and left those intact that were, and those that were not right have marked on them the correct amount?

A. I did not know how many was wrong at the time.

Q. Then you took all these wrappers off before you counted the package to see whether it was right or wrong?

A. I took them off to count the money, I know that, because I found a couple I started to count, they were short.

Q. And was it easier to count with the wrappers off or with the wrappers on?

A. No, it would be harder.

Q. With the wrappers off, wouldn't it?

A. Why, sure.

Q. Then what was your idea in taking the wrappers off, just because you found one or two packages short?

A. I did not know whether any bills had been pulled out of the others or not.

Q. Did you want to be sure how much money there was so that when you returned it to the Broadway Trust you could get a receipt for it?

A. No.

Q. You didn't have that in mind?

A. No, my intention——

Q. It didn't make any difference to you how much money was there, you were going to return it, weren't you?

A. Yes.

Q. So that the question of counting had nothing to do with the returning of the money to the Broadway Trust Company?

A. Only that I wanted to know how much was there, that is all.

Q. Had that anything to do with the return of it to the Broadway Trust?

A. I just wanted to know how much was there.

Q. For what reason did you want to know how much was there if you were going to return all of it?

A. Just for the simple reason to see how much was taken to Philadelphia, I suppose.

Q. Did you find out?

A. I did try to figure it, but I couldn't figure up how much was spent in Philadelphia.

Q. Was all this money in one package?

A. No, it was in two packages.

Q. I mean when you were counting it to see how much was there.

A. I don't know whether it was one or two.

Q. What did you say?

A. I don't know whether there was one or two.

Q. Wasn't it in a large, brown package?

A. Brown wrapping paper, you mean?

Q. Yes.

A. At first, yes, but I don't know whether——

Q. What was it wrapped up in when you had it hidden in your cellar?

A. I think it was newspapers.

Q. In newspapers? Where had the newspapers come from?

A. From my home.

Q. Who got them?

A. I believe I did.

Q. For what purpose?

A. To wrap the money up.

Q. The first day that the money was taken there?

A. Yes.

Q. When you went into the house where did you go with the money, to the second story immediately?

A. I don't know whether we stopped downstairs at first or not.

Q. How long were you upstairs with the money?

A. I don't know the exact time.

Q. Who suggested the cellar?

A. We were looking all through the house, first upstairs and downstairs, and finally we went down cellar.

Q. Who found the place under the cellar steps?

A. I think we both discovered it.

Q. Then after you both discovered it, you both agreed it would be a good hiding place?

A. For the time being.

Q. For the time being? What did you mean by that? Had you agreed to take it some place else to hide it?

A. I think Mr. James asked me if he couldn't leave it there until he found a place to put it.

Q. So when you agreed on it being a good place for the time being, you both put it in together?

A. I don't know which one of us put it in.

Q. Had you counted the money at that time?

A. No, sir.

Q. Had the money been wrapped up in newspapers then?

A. I believe it was.

Q. Was that done upstairs or downstairs?

A. I think that was done upstairs.

Q. How much money was taken by either of you before it was wrapped up?

A. I don't know.

Q. Did you get some?

A. I know in Philadelphia that I had about thirteen or fifteen hundred dollars, something like that.

Q. Did you get some of the money before it was hidden under the stairway, cellarway?

A. There was some taken out of the package.

Q. Did you get some of the money at that time?

A. I think we both got some.

Q. How much did Frank get?

A. I don't know.

Q. How much did you get?

A. I don't know at that time, but I know in Philadelphia I had thirteen or fifteen hundred dollars.

Q. Did you not say in Philadelphia that you had $2,000 and that 700 of it or 800 of it was in your safe? Didn't you tell Mary McGarvey that?

A. I believe I did.

Q. Where did you tell her you had gotten the money from?

A. I was intoxicated when I was there.

Mr. Carrow: If your Honor please, I do not believe this is proper cross-examination. There is nothing in the direct examination that this witness testified to as to telling anybody about those things.

The Court: I think it is proper in this aspect, Mr. Carrow: This witness has testified to having received some of this money, and I think anything that bears upon the amount that he received is proper cross-examination. It is not very material, though, Mr. Wolverton. I do not believe that it is necessary to spend a great deal of time on it.

The Prosecutor: No, sir. I appreciate that fact.

The Court: I think the particular question is proper cross-examination.

(Question repeated.)

A. Do you want me to answer that?
Q. If you please?
A. I think it was at the world series, I won it on the world series, or something like that.
Q. Did you have any reason in telling her you got it from the world series when you knew as a matter of fact that you had gotten it out of your cellar as part of this Paul murder money?
A. I couldn't tell her the truth.
Q. Now, was it thirteen or fifteen hundred, or two thousand that you got on that occasion?
A. The two thousand that I told her, I was only kidding about that. I don't believe it was over fifteen hundred that I had altogether, and part of that I returned to Mr. James on Friday night.

Q. Well, I say did you have originally $2,000?

A. No.

Q. Is that the reason you said it to her?

A. No, I didn't have $2,000 originally.

Q. What reason did you have for saying you had two thousand, then?

A. I don't know. I was intoxicated at the time I arrived there with the money.

Q. But you were not too intoxicated to know that you did have at least thirteen or fifteen hundred?

A. I had that much money over there.

Q. What is it?

A. I had that much money over there.

Q. Had you left any in the safe at your office?

A. No, sir.

Q. So that your statement to her that you had seven hundred there was not true?

A. That was not true.

Q. Now, how much did Frank get when you were at your home that first night?

A. I don't know.

Q. Where did you go when you left your home?

A. Out Kaighn Avenue and threw some of Frank's clothes over in the creek, I believe.

Q. Where had he changed his clothes?

A. At my home.

Q. How were the clothes disposed of?

A. I think they were wrapped up in a small bundle and had a brick in the middle and tied up with a cord or tape or something.

Q. Where did the brick come from?

A. My yard.

Q. Who got it?

A. I don't know which one of us got it. Either he or I.

Q. Where did the tape or the cord come from that tied the bundle up?

A. From my home.

Q. Who got that for the purpose that it was used for?

A. I don't know whether Frank walked over to the bureau drawer and took it or not.

Q. Do you remember what one tied the bundle up and wrapped the paper around it?

A. No, I do not.

Q. Before Frank could change his clothes did he have to get another suit?

A. He did get another suit.

Q. Where did he get that suit?

A. At his tailor's.

Q. Where is the tailor's?

A. At Newton Avenue and Trenton, I believe.

Q. Did you go with him?

A. Yes, sir.

Q. Did you go in with him?

A. No, I don't believe I did.

Q. Where were you?

A. Out in the machine.

Q. Hoy long was he in there?

A. Several minutes.

Q. How far away was Newton Avenue and Trenton Avenue from the police department, the central station, headquarters?

A. Several squares.

Q. Is it more than one square?

A. I don't know whether it is or not.

Q. Do you mean to say you don't know where Newton and Trenton Avenue is?

A. It is a pretty long square, if it is one square.

Q. But it is one square? Isn't it?

A. It is a pretty long square; yes, sir.

Q. It is one square, isn't it?

A. Yes, sir.

Q. But rather long?

A. It is; yes, sir.

Q. And it is right straight up—Trenton Avenue runs right straight into the headquarters of the Camden police department, does it not?

A. Yes, sir.

Q. No turns are necessary?

A. Take you almost directly there.

Q. After he got the suit, where did you go?

A. I think his tailor told him that it wouldn't be ready for a half hour, and from there we went to the office.

Q. What office?

A. The Eastern Telephone office, and he changed his shirt and collar at the office.

Q. Why did you go to the office to change his shirt and collar instead of to your home?

A. Well, when we first got to my home we didn't go in with the money because my wife was home at first and the money was put in the dog box; and then, thinking that probably she would go out, we left there and went to the tailor's, and then, to give her more time, probably, to get away or something, we went to the office and he changed his shirt and collar.

Q. Then when you got back she had gone?

A. She had gone when we got back.

Q. What did you do when you got to the office?

A. Mr. James changed his shirt and collar, and that is where I got that baby hammerless revolver that you spoke of.

Q. What do you mean, the pearl handled vest pocket revolver?

A. Pearl handled.

Q. Is that where you say you got it?

A. Yes, sir.

Q. That was what you said yesterday in your direct testimony; is that right?

A. Yes, sir.

Q. That you got it that night?

A. That night; yes, sir.

Q. What time?

A. I don't know just about what time. It must have been around about seven or seven-thirty. Probably it was earlier than that.

Q. Where did you get it from?

A. Out of the desk drawer where I usually kept it.

Q. And did you carry it in your pocket from that time on?

A. Up until Monday, I believe.

Q. Until the following Monday?

A. Yes, sir.

Q. Did you take it to Philadelphia with you?

A. Yes, sir.

Q. While you were with Frank?

A. Yes, sir.

Q. For what purpose did you go and get the gun and take it and carry it with you to Philadelphia?

A. Oh, I don't know. I just simply stuck it in my pocket, that is all.

Q. Would you have any need of a gun?

A. I very often carried that little hammerless gun.

Q. In fact, it was a habit to carry it, was it not?

A. Well, I carried it a good bit.

Q. Was it often that you were without it?

A. Yes, there was times that I didn't have it.

Q. Most of the time you carried it, didn't you?

A. I had it with me a good bit.

Q. What is it?

A. I had it with me a good bit.

Q. And you carried it in your vest pocket?

A. Yes, sir.

Q. And it was pearl handled; is that right?

A. Yes, sir.

Q. Twenty-two caliber?

A. Yes, sir.

Q. What did you have in your mind when you took that revolver out of the drawer that night?

A. I don't know, only that I just saw it and stuck it in my pocket the same as I had done many another time.

Q. You are speaking of the night of October 5th, are you not, after you had returned from the Jersey pines?

A. Yes.

Q. That is the night? No question about it? You took it away with you?

A. Yes, sir.

Q. Where did you take it?

A. Wherever I went. I took it with me.

Q. When did you next return to the office?

A. I think it was on a Monday.

Q. Did you have the revolver with you then?

A. Yes, sir.

Q. What did you do with it?

A. It was lost, or somebody took it in the office. That was the last I had seen of it.

Q. What? After October 11th?

A. Yes.

Q. Where did you put it?

A. In the office some place. I think it was up on the safe I put it.

Q. You remember very distinctly that you got that revolver on the night of October 5th, and carried it with you to Philadelphia and had it with you when you came to your office on Monday, October 11th, and then left it on top of the safe, and that in the meantime it had been with you entirely; is that right?

A. In the meantime it had what?

Q. It had been with you in your possession?

A. Yes, sir.

Q. Now, if you are positive of that fact, now how was it that when we took these statements that you gave the questions and answers which you did which I read to you yesterday, and in which you said, "I never gave it a thought as to the using of the gun."

A. Well, I wasn't positive that I had the gun with me.

Q. You did say at that time——

A. I must have.

Q. —— when I took your statement, that you had the gun with you, didn't you?

A. That I must have had it with me.

Q. When did you change your mind as to the fact that you must have had it with you on the day of this crime and now come to the conclusion that you didn't get it until that night?

A. I thought of it later.

Q. When did it first come to your attention or remembrance?

A. Since I was upstairs in the county jail.

Q. How long ago?

A. Probably two or three weeks.

Q. So that from October 5th until two or three weeks ago you had never remembered getting that revolver at your office on the evening of October 5th?

A. I don't suppose I was thinking about it.

Q. Now, where did you go when you left the office?

A. Back to my home, I believe.

Q. Where was the money while you were making this trip first to the tailor's and then to your office?

A. That was out in the yard in the dog box.

Q. Was it still there when you got back?

A. Yes, sir.

Q. Did you take it out?

A. It was taken out and taken in the house.

Q. Did you see it taken out?

A. I don't know whether Mr. James took it out or I took it out.

Q. Was it wrapped up or were the bundles loose?

A. I think it was loose then.

Q. In all these little bundles you mean?

A. I don't know just how it was, but I think it was loose. I am not positive.

Q. Who went in the house first?

A. I think I went in the house first.

Q. For what reason?

A. I had to unlock the door to get in.

Q. Couldn't you unlock the door from the outside?

A. Well, to go in the house I surely couldn't unlock it from the inside to go in.

Q. That is what I thought. So who was the first one to go in?

A. I suppose I was, if I unlocked the door.

Q. Where was James when you went in?

A. Right in back of me, I suppose.

Q. Well, was he?

A. Well, he was in the house. He must have come in in back of me.

Q. Did he have the money in his hand or in your hand?

A. I just said I didn't know whether he carried it or I carried it.

Q. Do you mean to say you went away to avoid your wife seeing you and then came back and walked into the house without knowing whether she was there or not?

A. The lights were out.

Q. Did you assume from that that she was gone?

A. Yes, sir.

Q. Did you go in first to make sure before you carried this loose money in?

A. I don't know now whether I did or not.

Q. Isn't it likely that you did?

A. I may have gone in.

Q. After you went in did you see your wife there?

A. No, sir.

Q. Did James then come in with the money?

A. I think he was in there.

Q. Where did you go with the money then?

A. Upstairs, I believe.

Q. Was that where you had gone when you first went to the house?

A. I think it was right upstairs.

Q. Then you went to the same room again? Did he have his clothes then?

A. Yes, sir.

Q. And he made his change?

A. Yes, sir.

Q. While he was changing his clothes, what did you do?

A. I think I was tying the money up in one bundle.

Q. With newspapers?

A. I believe it was.

Q. For what purpose?

A. I don't know. To hide it somewhere.

Q. Did you take any more money out at that time?

A. I think—I know there was some money taken out at my home, but I don't know whether it was upstairs or downstairs or where it was.

Q. But it wasn't taken out after it had been wrapped up, was it?

A. I don't know for sure whether it was or not.

Q. Was it taken before you went out of the house to the tailor's, or after you came back?

A. I am not at the present time positive of that.
Q. Was it taken more than once?
A. At my home?
Q. Yes.
A. I am not sure whether it was or not.
Q. You are not sure how much each of you took?
A. No, sir.
Q. After you got the package wrapped up and his clothes wrapped up, who put the money in the cellarway?
A. Both of us.
Q. And who went to Kaighn Avenue bridge with the clothes?
A. Both of us.
Q. Who drove the car?
A. I don't know whether Mr. James drove it there or I did.
Q. Who threw the clothes overboard?
A. I think Mr. James threw them over.
Q. Then where did you go?
A. From there to his garage to put his car away.
Q. What is it?
A. From there to the Lippincott Motor Company to put his car away.
Q. And after you put the car away what did you do?
A. Went to Philadelphia.
Q. How did you get there?
A. I think engaged a car at the ferry and crossed in an automobile.
Q.What is it?
A. I think we crossed in an automobile.
Q. Where did you get the automobile?
A. I am not sure whether we crossed at Market Street ferry or Kaighn Avenue ferry, but yet I have a slight recollection we crossed Kaighn Avenue ferry for some reason.

Q. Where did you get this car; at Federal Street?

A. I think it was Federal Street ferry, and then rode to Kaighn Avenue.

Q. If you got this car at Federal Street ferry, why didn't you go across the Federal Street ferry instead of going to Kaighn Avenue ferry?

A. I don't know. Frank said something about me being nervous and he didn't want anybody to see me, or something like that, and I suppose that is the reason.

Q. So you went to Kaighn Avenue ferry so that no one would see you going over to Philadelphia together; is that right?

A. I suppose so, yes.

Q. After you got to Kaighn Avenue ferry and crossed the river, where did you go?

A. I think it was 15th and Market, 15th or 16th and Market.

Q. Then what did you do?

Mr. Carrow: I think that is where I stopped on my direct examination, and I renew my objection that the Prosecutor be limited to the scope of the direct examination.

The Court. Well, I am going to limit Mr. Wolverton to the scope, of course, of the direct examination. I think Mr. Wolverton understood that yesterday, did you not, Mr. Wolverton?

The Prosecutor: Yes.

The Court: It is perfectly apparent that it would be utterly impossible to finish this case today.

The Prosecutor: Just as the Court has said, we have all agreed after conference that it would be

impossible to finish, so that no good purpose would be served by going on.

The Court: That is the way I feel about it myself, so I feel we had better recess now until Monday morning at 9.45.

(Adjourned until Monday, February 21, 1921, at 9.45 o'clock A. M.)

SEVENTH DAY.

Camden, N. J., February 21, 1921.

Trial of the cause resumed at 9.45 o'clock A. M. on the above date, pursuant to adjournment, in the presence of the defendant and counsel for the respective parties.

RAYMOND W. SCHUCK, resumed in cross-examination.

(Last question repeated.)

The Court: I think the witness on his direct examination testified, I think, with reference to the trip across to Philadelphia.

The Prosecutor: That is my recollection, yes, sir.

The Court: So that I will allow the question.

Mr. Carrow: Oh, if your Honor please, did I understand you to say that the witness testified—He testified to the trip across the river, but not what transpired in Philadelphia.

The Court: No and yes; he testified, as my recollection is, that he went across the ferry, and then he testified as to what he did that evening. Will you just look at your testimony, and I think that you will find on page 445, Mr. Carrow, that the defendant stated that he went to Philadelphia. "Q. So you went to Philadelphia?" That was your question. "A. Mr. James put his car away, yes, sir, we went to Philadelphia."

Mr. Carrow: Yes, and that is where the direct examination ceased.

The Court: Now, he went to Philadelphia; now, Mr. Wolverton is entitled on cross-examination to show how he went to Philadelphia.

Mr. Carrow: Well, he has shown that, if your Honor please; his testimony on Saturday morning told that, how he went to Philadelphia.

The Court: Yes, he went by the Kaighn Avenue ferry.

Mr. Carrow: Yes, sir.

The Court: And at the conclusion of the court on Saturday the defendant so far as his examination was concerned, was in Philadelphia.

Mr. Carrow: Yes, sir.

The Court: Now, this question is what, Mr. Stenographer?

(Last question repeated by stenographer.)

The Court: Does that mean what he did in Philadelphia?

The Prosecutor: Yes, sir.

The Court: I think, Mr. Wolverton, as I said, the direct examination did not state what he did in Philadelphia, and I will limit the cross-examination to just the matters which were brought out on direct examination.

The Prosecutor: If the Court please, there is one other phase of it other than the direct examination on that particular point that I think opens up the attitude of this defendant and James, part of which attitude is shown in their conduct toward one another in the City of Philadelphia, and that phase of the case is this: The defendant has sought to show that he was under some domination, fear or threats of James. It is the purpose of the State to cross-examine him in connection with that matter as to the different times he had been with James and where he had been with him and left him, the circumstances under which he left him and returned. Now, some of those circumstances are in the City of Philadelphia. My thought is that when the defendant takes that position, that he was acting under domination, any time that he was with the defendant, and the reason for that, or any time he was

with James, the reason that he was with him, his leaving him, the purpose of their meeting, whether it was in the City of Philadelphia or whether it was in the City of Camden, would be admissible on cross-examination.

Mr. Carrow: If your Honor please, Mr. Wolverton brought out that feature of the case in his own cross-examination. There is nothing in this defendant's direct examination as to that feature; it was Mr. Wolverton who brought that out himself in his cross-examination that led the defendant to answer as he did.

The Court: Now, Mr. Wolverton, I appreciate, of course, the position; but if the domination and control which this defendant claims James exercised over him has very much bearing upon the case, it must be the domination and control exercised during what you allege to have been the conspiracy to rob, out of which grew the murder of Mr. Paul. Now, it seems to me to be very remote as to any domination and control which would affect at all the real issue in this case; that is, what they did in Philadelphia really does not seem to me to have a bearing upon the domination and control during the course of the act, and you can see that it would open a very wide door, and it might result in the defendant's offering testimony upon that very subject.

The Prosecutor: If your Honor please, the defendant even in his statement went so far as to say that he went back to the grave to bury it because James compelled him to, showing that even on that date, the 14th of January, he still claimed to be acting under the domination of James.

The Court: Now, of course, that you have a perfect right to go into, because the defendant has testified to that on his direct examination, but even upon your theory of the case, I would decline to let you cross-examine him on what occurred in Philadelphia.

Q. You say you went to Philadelphia with James?
A. Yes, sir.
Q. When did you leave Philadelphia?
A. I think it was on Wednesday, Wednesday night.
Q. Where did you go?
A. To my home in Camden.
Q. Did James go with you?
A. I left Mr. James in Philadelphia.
Q. Did James tell you to go home?
A. I went home myself.
Q. For what reason?
A. I wanted to go home, that was all.
Q. Whom did you see when you got there?
A. My wife.
Q. Did you tell her where you had been?
A. I don't know whether I did or not.
Q. Did you give any excuse for your absence?

Mr. Carrow: Now, if your Honor please, Mr. Wolverton is going into something that was not asked this defendant at all on the direct examination. He is now attempting to get from the witness conversation that he had with his wife on Wednesday following the commission of this crime.

The Court: Now, it was on Wednesday, Mr. Carrow, after the commission of this crime, that the witness testified to the visit of Mr. James to his home, I think, and his wife was present, wasn't it?

Mr. Carrow: No, sir, that was the following Wednesday.

The Court: Yes, Wednesday, October 13th, I am referring to.

Mr. Carrow: Yes, but Mr. Wolverton is questioning now about Wednesday, the night after the commission of the crime.

The Court: Well, I think that was not touched on, Mr. Wolverton, in the direct examination.

The Prosecutor: And you object to my going into it, Mr. Carrow:

Mr. Carrow: Yes, sir.

Q. Where were you on Thursday?

Mr. Carrow: If the Court please, I object for the same reason.

The Prosecutor: All right, if counsel objects.

Q. Where were you on Friday?

Mr. Carrow: The same objection is made, if the Court please; I might as well make a general objection that the Prosecutor be limited to the course of the direct examination, and the next feature, I think, that this witness tesified to in his direct examination was about October 14th.

The Court: Well, of course, Mr. Carrow, Mr. Wolverton has a perfect right, and that is one of the methods of cross-examination, to flit from one sub-

ject to another, so to speak, and one date to another, and it is not likely that Mr. Wolverton will just go through the cross-examination in the same way that you conducted the direct examination, and of course he is perfectly within his rights; but, Mr. Wolverton, I think that Mr. Carrow was right that the witness did not touch on these questions, and moreover the witness has admitted where he was on those days in his admissions which have been introduced in evidence.

The Prosecutor: Yes, sir, if the Court please, the question that I asked, as many questions that I might ask, there might be some objection taken to by counsel. Counsel does not always take objection. It was my purpose to ask the question and if counsel objects I will not cross it further under the Court's ruling.

The Court: That is all right, you have that right.

Q. Where were you on Thursday?

Mr. Carrow: I object, if your Honor please.

The Court: The Court rules it is not cross-examination.

Q. Who were you with on Thursday?

(Objected to.)

The Court: The question is overruled.

Q. Did you see James on Thursday?

(Objected to.)

The Court: The question is overruled.

Q. Where were you on Friday?

Mr. Carrow: I object.

The Court: The question is overruled.

Q. Did you see James on Friday?

(Objected to.)

The Court: That question is overruled.

Q. Where were you on Saturday?

(Objected to.)

The Court: The question is overruled.

Q. Who were you with on Saturday?

(Objected to.)

The Court: The question is overruled.

Q. Did you see James on Saturday?

(Objected to.)

The Court: The question is overruled.

Q. Did you take any money to James on Saturday?

(Objected to.)

The Court: Now, let me see, there was something stated, I think, by the witness in his direct examination, was there not, Mr. Carrow, that he took James some money to Philadelphia on one of these days? My recollection was it was prior to Saturday, however.

Mr. Carrow: If your Honor please, he did not say in his direct examination anything about taking money to Mr. James, but Mr. Wolverton by way of cross-examination brought that feature out. It appears as part of the State's case through these admissions or statements which are in evidence and are State's witnesses, that that fact happened, and the Prosecutor cross-examined him on those points, but I did not ask him anything about it on direct examination.

The Court: Mr. Wolverton, can you refer to that? I cannot recall that myself.

The Prosecutor: Well, if your Honor please, I realize that it is in the case, and I am not going to take the time—

The Court: Oh, yes, it is in the case, of course, and one of the things that controls me, Mr. Wolverton, is that of course your examination of the defendant on November 10th was very exhaustive and almost a cross-examination—perhaps that is a little too—or rather improper maybe to use that, but I meant to say that the defendant has gone into this matter so that the State is not in any way shut out from what occurred on those dates.

The Prosecutor: I appreciate that; it is for that reason that I am not going to take the time to even

go through the record to see that he did testify to it. It was my recollection that he did, but I am not going to press it.

The Court: Then, you withdraw the question?

The Prosecutor: Yes.

Q. Did you take any money to James on Saturday?

(Objected to.)

The Court: That is overruled.

Q. Did you see James on Saturday evening at 62nd and Market?

(Objected to.)

The Court: That is overruled.

Q. Did you go back to Camden on Saturday afternoon?

(Objected to.)

The Court: That is overruled.

Q. Did you see James on Saturday at any time, morning, afternoon or evening?

(Objected to.)

The Court: That is overruled.

Q. Did you take any money to him on Saturday?

(Objected to.)

Q. When did you next see James?

(Objected to.)

The Court: That is overruled.

The Prosecutor: Well, I do not think that question should be overruled.

The Court: Oh, no, when you next saw James, you have a perfect right to ask that.

Q. When did you next see James after Tuesday?

Mr. Carrow: If your Honor please, you can see where that is going to lead. Suppose the witness answers that he saw him the next day or the next day, or the Saturday following; now, those questions have already been overruled, and the Prosecutor is just seeking to get at those questions in a round-about-way in another way; the witness will be in exactly the same position as he was if you had permitted the original question.

The Prosecutor: Does counsel for the defendant wish me to say, "When did you next see him after Saturday?

Mr. Carrow: Well, the answer would lead the witness right to where you want to get him, Mr. Wolverton.

The Prosecutor: Well, I have been trying to get him there.

The Court: Well, let's get him there then, Mr. Wolverton.

The Prosecutor: Do you object to the question?

Mr. Carrow: Yes, sir.

Q. When did you next see James after Saturday?

Mr. Carrow: I understand the Court has ruled; may I have an exception?

The Prosecutor: I have changed the question, your Honor.

The Court: All the rulings have been in your favor, so I hardly think you want an exception, Mr. Carrow.

(Question repeated.)

A. I think it was on Wednesday, the 13th.
Q. Where did you see him?
A. He came to my home.
Q. And for what reason did he come to see you?
A. I believe he had been to the office or called the office on the telephone to find out if I was in, and they told him I was sick in bed, and he came out in the neighborhood, told me he was out there to see someone and came out to see me.
Q. What did he talk to you about?
A. He came rushing upstairs and told me to brace up, to get my nerves together, that everything was all right, that he had been to the Prosecutor's office, and he had everything fixed up, that he didn't have to worry about anything else but me, something like that.

Q. What did he say as to what had taken place at the Prosecutor's office?

A. Something about he had fixed it up with the Prosecutor, or he was not afraid of the Prosecutor, or the Camden detectives, or the Pinkerton detectives, or anybody else.

Q. Didn't he say, "It won't be necessary for us to run away."

A. I don't remember him saying that.

Q. He was perfectly satisfied then with the interview that he had had with the Prosecutor on the preceding Monday night, was he?

A. Yes, he told me he was there and said everything—that he had fixed everything up, something like that; I just can't remember at the present time.

Q. Then, you sent word to Philadelphia that you were satisfied, didn't you?

A. I don't remember that.

Q. Did you telephone to your young lady friend in Philadelphia?

A. No.

Q. That James had just been there and told you that everything was all right?

A. I don't remember that.

Q. Did you have anyone do the telephoning for you?

A. When I was in bed a friend came around to see me, and I asked him to go call this party on the telephone and tell her that I was sick.

Q. Didn't you call her on the phone and tell her that Frank had been there and he told you he had been to the Prosecutor's office?

Mr. Carrow: Now, wait a minute, if your Honor please, I think that question should be confined to a particular time and place. Perhaps the witness might have done that at some other time.

Q. That same evening, Wednesday?
A. I don't remember that.
Q. Will you say that you did or did not?
A. I wouldn't like to, because I don't remember.
Q. What?
A. I wouldn't like to, because I don't remember that.
Q. May you have done it?
A. I may have, but I am not sure about it.
Q. Do you have any recollection of having a conversation with her on the telephone?
A. No, not at the present time I haven't.
Q. What makes you doubt and say you may have done it or you may not?
A. Well, I told you I wasn't positive.
Q. Did you telephone to her that you were sick?
A. I think this friend of mine called her up.
Q. Who?
A. Jesse Sage.
Q. What other message did you give Jesse Sage to give her?
A. I don't remember at the present time.
Q. What was your reason for having Jesse Sage call her up merely to tell her you were sick?
A. Probably because I had an engagement with her.
Q. Did you have an engagement with her?
A. I don't remember at the present time.
Q. Where had you been on Monday?

Mr. Carrow: I object to that, if your Honor please.

The Prosecutor: The Monday night referred to is the date that I thought he had testified to about burying the money.

The Court: That is correct; it was on October 11th.

Mr. Carrow: Yes, sir; but his question is too broad. If the Prosecutor wants to know that from the witness, he could ask him specifically.

The Court: I will allow the question.

Q. Where were you Monday morning, October 11th?

A. I think I worked in the morning.

Q. Where were you in the afternoon?

A. It was in the afternoon early that I buried the money.

Q. Who was with you when you buried it?

A. I was alone.

Q. Where did you bury it?

A. The Evergreen Cemetery.

Q. How did you bury it?

A. With a shovel.

Q. Where did you buy the plant that was buried with it?

A. August Hilden's.

Q. Why did you buy a plant to take with you to the cemetery?

A. I don't know. It just come in my mind, that was all.

Q. Did you take it for any purpose at all?

A. I don't remember now whether I did or not. It just come in my mind and I bought it, that was all.

Q. Bought it for what purpose?

A. To take to the cemetery.

Q. Why?

A. I suppose because people might wonder what I was doing there and see me digging and come over

and find out what I was doing, or something like that.

Q. So then you bought a plant so as to divert suspicion as to your real purpose in being there if anyone should happen to see you?

A. I suppose. I guess it is a mighty good reason I did buy the flower or the money would have been gone.

Q. Is that the reason?

The Court: I suppose that is not responsive. Is there any objection? It will stand.

Q. What was your reason in taking the plant?

A. I don't remember. It just come in my mind and I bought it and took it out there.

Q. When did it come into your mind to buy the plant?

A. It must have come in that day or I wouldn't have bought it that day.

Q. What time that day?

A. I don't know just the exact time.

Q. When did you buy the plant?

A. It was on Monday.

Q. What time?

A. I don't know the time.

Q. Was it morning or afternoon?

A. It was in the afternoon some time.

Q. Did you make up your mind on the impulse to buy the plant, or had you thought of it beforehand?

A. No, I had thought of it when I was down that way.

Q. How long beforehand?

A. Before what?

Q. Before you purchased it?

A. I don't know. I suppose I bought it right after I thought of it.

Q. Had you talked to anybody about it?

A. No, sir.

Q. Whose car did you have to go to Evergreen Cemetery?

A. Mr. Robinson's car.

Q. When did you get it from him?

A. I think it was between twelve and one, some time in the afternoon.

Q. For what purpose did you get his car?

A. To take the money down to the Broadway Trust Company and try to throw it in the door.

Q. Did you not tell him that you were getting it to take your clothes from your home to your father's home?

A. Yes, but I couldn't tell him what my real intentions were.

Q. So that wasn't true, the reason you gave him for getting the car?

A. No, sir.

Q. Did you have it in mind to take the car to the Evergreen Cemetery with the money?

A. Not at that time.

Q. Did you need a car to take you and the money to the Broadway Trust Company?

A. Well, it was my idea of throwing it in there and not being discovered putting it in.

Q. Did you need a car to do that?

A. Yes, I could have drove away very quick with the car.

Q. Then, when you got the car from him you had in mind that you would return the money to the Broadway Trust Company?

A. Yes, sir.

Q. And that you would take it down and throw it in the door?

A. And get away without being seen.

Q. That was your real purpose in getting the car?

A. Yes, sir.

Q. And your real purpose was to return the money, was it not?

A. Yes, sir.

Q. What changed your mind?

A. There was people around there and I couldn't get a chance to throw it in.

Q. Did you stand there waiting?

A. I was up and down there three or four times waiting for a chance.

Q. Did you stop the car at any time?

A. I don't remember whether I did or not.

Q. What time were you there?

A. It was in the early part of the afternoon.

Q. Why didn't you return the money by parcel post?

A. I didn't think of it.

Q. Why didn't you return it by mail?

A. I didn't think of it.

Q. Why didn't you return it by messenger?

A. I didn't think of it.

Q. Why didn't you take it there at night?

A. The bank is closed at night isn't it?

Q. Isn't there a watchman there?

A. I suppose.

Q. Couldn't you have sent it by a messenger at night?

A. I didn't think of that.

Q. When did you first think of returning the money?

A. It was on a Sunday or Monday, I just forget when it was.

Q. Did you count the money before you returned it—or before you made up your mind to return it?

A. I tried to, but I lost count.

Q. How much did you count?

A. I forget now how much it was.

Q. Was it all at your house when you counted it?

A. Yes, sir.

Q. Who was there when you counted it?

A. My wife and other people upstairs; but this happened down cellar. There wasn't anyone present when I was counting it.

Q. For what reason were you counting it?

A. I wanted to see how much was there.

Q. For what reason?

A. Well, I knew I had been to Philadelphia and spent some of it and there was some money coming to me from my grandmother's estate—

Q. What had you spent in Philadelphia?

A. I don't know. I am sorry I have to admit it in court, but I was under the influence of drink and I really don't know how much I spent.

Q. What did you spend it for in Philadelphia?

A. I don't know. I was under the influence of drink.

Q. Did you buy a fur coat for $480?

A. Yes, sir.

Q. For whom?

A. A friend of mine.

Q. What else did you spend?

A. I bought a ring, at Mr. Shaw's jewelry store.

Q. When did you buy that?

A. I think it was on Saturday, the 16th.

Q. Had you promised the fur coat to the girl before you bought it?

A. Yes, sir.

Q. Were you under the influence of liquor when you bought that?

A. No, but I—

Q Were you under the influence of liquor when you spent the rest of the money in Philadelphia?

A. Most of the time; yes, sir.

Q. What excuse did you have, then, for spending the money for the fur coat?

A. I was under the influence of drink the night before when I promised to buy it for her.

Q. Hadn't you promised it to her before that?

A. Yes, but don't you see I showed her—

Q. What did the fact that you were under the influence of liquor the night before have to do with it?

A. I showed her the money and she asked me where I got it and I told her a lie about it, and then we got talking about the coat and it was only because I had the money with me at that time that I bought it.

Q. And you showed her how much money?

A. Yes, sir.

Q. How much did you show her?

A. I think it was $1300.

Q. What did you do with the balance after you spent $480 for the fur coat?

A. It was taken to her sister's on Girard Avenue.

Q. For what reason?

A. I don't know. I just left it there over night.

Q. The same night?

A. I think it was the following night.

Q. Thursday night, you mean?

A. I think it was on Thursday night.

Q. Where did you have it, then, between Wednesday and Thursday?

A. It was at her home Wednesday night.

Q. The whole amount, $1300?

A. Thirteen hundred; yes, sir.

Q. Then you bought the coat on Thursday?

A. Bought the coat on Thursday.

Q. You say you were under the influence of liquor the night before?

A. Yes, sir.

Q. Did you not spend that night at home with your wife?

A. I think I was, yes.

Q. And is that where you were under the influence of liquor when you promised this girl a fur coat?

A. I don't understand that question.

Q. You just said a minute ago the reason you bought it was because you had been under the influence of liquor the night before and promised her the fur coat. I now ask you if that isn't the night you have before testified that you were home with your wife?

Mr. Carrow: You can see where this cross-examination is leading. It is leading into matters the defendant did not testify to on direct examination, and it is leading into matters that the State has proven once by the admissions in the case, these admissions or confessions. Now they are seeking by this witness to contradict their own case.

The Court: Mr. Carrow, this line of examination is permissible. Your defense is that there was no conspiracy, no agreement.

Mr. Carrow: Absolutely.

The Court: Now, Mr. Wolverton—of course, I cannot read his mind, but I take it that the purpose of this examination is to show that there was in the defendant's mind the thought that he would have money or else he would not have promised a fur coat, and therefore it is admissible upon the subject of whether or not there existed a conspiracy, and I will allow the question.

But, of course, Mr. Wolverton, I want you to use your own good judgment in not letting the examination be too extended on that, because while I think it is permissible, yet, of course, I want the examination to be as brief as you feel you can reasonably make it.

The Prosecutor: I think it had reached its culmination when the objection was made.

(Question repeated.)

Mr. Carrow: There is no testimony in this case, I do not believe—and I have followed the testimony pretty closely—that that night he was home with his wife.

The Court: But that would not absolutely be necessary for the purpose of this question.

Mr. Carrow: No, but the question is confusing to the mind of the witness.

The Court: Well, that is one of the purposes of cross-examination. Of course, I think the question is intelligible. In other words, if it was an unintelligible question—as to what facts the Prosecutor puts in there, that is his business.

(Question repeated.)

A. I thought you meant about being home with my wife, if I was home early in the evening or home all night. I meant by that that I was home all night. I got home late, you understand, and stayed home all night.

Q. Then, you saw the girl first and promised her the fur coat and then went on home?

A. That is the idea. It was after I left her I went home.

Q. And you wouldn't have promised her the fur coat if you hadn't been intoxicated?

A. No, not at that time I certainly wouldn't.

Q. Did you leave the money with her?

A. Yes.

Q. And when did you get the money?

A. She give it to me, I believe, right after the coat was bought, the balance of it.

Q. The following afternoon? You paid for the coat?

A. Yes, sir.

Q. What did you do with the balance of the money?

A. I believe we went from there to her sister's on Girard Avenue and had dinner and stayed there in the evening.

Q. And did you leave the money there?

A. Yes, that was left there that night.

Q. When did you get it again?

A. It was either on Friday night or Saturday, I just forget which.

Q. What did you do with it after you got it?

A. I gave it to Mr. James.

Q. When?

A. I think it was on a Saturday.

Q. Where?

A. In Philadelphia.

Q. How much?

A. I don't know the exact amount, but whatever it was it was given to Mr. James.

Q. Did you give him any other money at that time?

A. Not at the time I give him that.

Q. Did you give him more the same day or evening?

A. I am not sure, you see, whether I give that—

Q. Didn't you give him money at 62nd and Market?

A. I understand what you mean. Yes, I give him some money there.

Q. Where did you get that money from?

A. From my home.

Q. Then, after you gave Mr. James some money you went back to your home and got more money for him, didn't you?

A. I think that was at her sister's on Girard Avenue, I think I returned that to him on Friday night right after I got it.

Q. Then, on Saturday, you went and got him more money at your home?

A. Yes, sir.

Q. And gave him that Saturday night?

A. Yes, sir.

Q. How much did you give him in that package?

A. I didn't know. I didn't count it.

Q. Where did you get it from?

A. From my home.

Q. From the place where you had it hidden in that cellarway?

A. Yes, sir.

Q. Was it all in one bundle?

A. Yes, sir.

Q. How many packages of money were there in what you gave Mr. James?

A. I forget whether the packages were off then or on.

Q. Didn't you previously testify that you didn't take them off until the day you were going to bury the money?

A. Yes, I guess I did. I can't remember those points that close.

Q. Then, your recollection now is that the wrappers were still on when you gave it to Mr. James on Saturday night?

A. I don't know whether they were or not. I am not sure about it.

Q. Well, did you count the money that you gave him?

A. No, sir.

Q. How big a package was it?

A. Oh, it was about that wide, I suppose. (Indicating.)

Q. How was it wrapped?

A. I don't know what kind of paper it was wrapped in.

Q. Who wrapped it up?

A. I did.

Q. Anybody at your home when you went there Saturday?

A. Yes.

Q. Who?

A. My wife, and I think we had company.

Q. Who?

A. I think we had company. I am not sure about it.

Q. After you got the money and took it to him, then you say that you didn't see him or give him any more money?

A. You are speaking of after Saturday now?

Q. Yes.

A. Not that I can remember.

Q. And how much money did you then have?

A. I don't know. I can't remember anything about that money.

Q. Did you have any of the Paul money then after you saw Mr. James Saturday night?

A. I am not positive whether I did or not.

Q. Well, did you give him all that you had Friday?

A. I don't know whether I did or not.

Q. Did you take any more out of the package?

A. I don't remember.

Q. Did you take any before you wrapped it up?

A. I don't believe so.

Q. How much did you have in the package when you wrapped it up?

A. What package do you mean?

Q. Either one that you wish to speak about first.

A. I never counted the money at any time.

Q. You had it all in one package in your cellar, didn't you?

A. I think there was two packages.

Q. Haven't you testified that you had it all wrapped up in a newspaper and hidden under your cellarway?

A. Yes, but I am speaking about the time now when I buried the money it was wrapped up in two packages.

Q. Up to the time you buried it you had it in one package, didn't you?

A. I think it was; I am not positive.

Q. And that was wrapped in newspaper, was it not?

A. Yes.

Q. The time you wrapped it in newspaper, is that when you took the wrappers off?

A. I think it was.

Q. For what reason did you take the wrappers off?

A. Well, I wanted to find out how much money was there, and, as I said before, there was some money coming to me from my grandmother's estate—

Q. I didn't ask you anything about that.

Mr. Carrow: Let the witness answer.

The Prosecutor: I object.

Mr. Carrow: He is giving his reasons.

The Prosecutor: I have no objection to counsel asking for his reasons, but I want an answer responsive to the question I asked.

(Question repeated.)

The Prosecutor: That has nothing to do with grandmother's estates or anything of the kind.

Mr. Carrow: You are asking for his reason, and I think the witness ought to be permitted—

(Answer repeated.)

The Court: I think the witness has a right to answer it that way.

Q. Go ahead.

A. I had this money coming to me from my grandmother's estate and I wanted to try to replace what I had spent when I was in Philadelphia.

Q. How much money did you spend in Philadelphia?

A. I hadn't figured it up at that time.

Q. What was the reason for counting the money you were going to return, then, if you didn't know how much you had spent in order to replace?

A. I suppose I would have figured that up after I had counted it.

Q. Have you figured it up since you have been charged with this crime, how much you spent in Philadelphia?

A. No, not since then.

Q. So that on that day you had your mind made up that you wanted to return what you had spent, and you haven't figured up yet what you did spend?

A. I haven't bothered with it since.

Q. Haven't bothered with it since?

A. No.

Q. You have thought of other matters in the county jail. If this was so important in your mind that you wanted to return it, why haven't you thought of what you spent?

A. You told me in Mt. Holly so far as the money was concerned there was nothing doing, it was the crime you wanted to get at and not the money.

Q. Do you remember that?

A. That may not have been the exact words.

Q. Do you remember my saying that?

A. I remember you saying something about that.

Q. I am very glad to know that you remember. Now, under those circumstances, you say you made up your mind that you wouldn't bother any more about the money?

A. There is things I can't remember about that. I haven't followed up every little detail. I have forgotten about most of those things.

Q. And after you took the wrappers off what did you do with the wrappers?

A. I burned them up.

Q. Where did you burn them?

A. I don't know, I just burned them up, that is all.

Q. Why didn't you count each package with the wrappers on to know whether each package was right or only some were wrong?

A. I think I counted a couple and they were short.

Q. What is it?

A. I think I counted a couple of them and they were short, and I did not know but some of the rest of them might be short.

Q. You couldn't tell whether they were short or not after you took the wrappers off could you? Now, as a matter of fact, did you not take the wrappers off so as to hide any identifying marks?

Mr. Carrow: If the Court please, I think the stenographer's record of this trial will show that last Friday Mr. Wolverton spent two hours in going into that subject with this witness. I do not wish to appear captious in the matter, if the Court please, but I would like to finish this case today, and if we are going all over that same line of testimony again I do not know when we ever will get done.

The Court: Well, I will allow this question, but I do think, Mr. Wolverton, that you did cross-examine upon the subject of wrappers.

The Prosecutor: Of the wrappers, yes, that one phase, just partly, yes, sir.

Q. Will you answer the question, Mr. Schuck?

The Witness: What was that question, Mr. Berry, please?

(Question repeated.)

A. No, sir.

Q. And wasn't your reason for burning it so that nobody would see any evidence of this character after you had buried it?

A. No.

Q. Then why did you burn it?

A. Burn the wrappers?

Q. Yes.

A. I suppose I didn't want my wife to see them, that was all.

Q. Why didn't you want her to see them?

A. I don't know, I never gave that a thought.

Q. You were going to return the money to the bank, weren't you?

A. Yes, but I suppose—

Q. You were going out with that intention?

A. I suppose I thought it wouldn't be necessary to worry her.

Q. I say, you were going out of the house that day with that package of money with the intention of throwing it into the bank, weren't you?

A. Yes.

Q. And what difference did it make about the wrappers and whether your wife saw them or not?

A. If I had managed to throw it into the bank and got away without being seen, she wouldn't have to know anything about it.

Q. So you did burn them with the intention of nobody finding the wrappers or knowing anything about them, didn't you?

A. Yes.

Q. When you went out with the package, how did you have them wrapped, in what kind of paper?

A. I think it was in newspaper.

Q. Now, are you sure it was in newspaper?

A. Well, I will say yes.

Q. It was in newspaper?

A. In newspaper, yes.

Q. Where did you have the car—had you already gotten the car?

A. Yes, I think so; I am not positive whether I had or not.

Q. You don't remember whether you had the car and put the package in it, or whether you carried the package and got in the car?

A. Oh, no, I had the car when I put the package in it.

Q. You had the car; now, you started out with the intention of putting the money in the Broadway Trust Company, and you had it all wrapped up in a package?

A. Yes.

Q. What course did you take, or what direction, to go to the Broadway Trust?

A. Well, I just remember—I can't remember how I got on Broadway, what street it was.

Q. Did you go from your home direct to the Broadway Trust?

A. Yes, I believe I did.

Q. Did you stop your car in front?

A. No, I was just riding up and down.

Q. Did you see anybody you knew?

A. No, but there was people standing around there.

Q. Where did you have the money?

A. On the front seat, I believe.

Q. Alongside of you?

A. I believe it was.

Q. Now, Mr. Schuck, you say you changed your mind about putting it in the bank?

A. I couldn't get an opportunity.

Q. You couldn't get an opportunity?

A. No.

Q. Then, when did it occur to you to bury the money?

A. Why, I didn't get a chance, and I started to get nervous with that money alongside of me riding along Broadway, and it came in my mind—I knew I would never take it home again—it came in my mind to bury the money then for the time being.

Q. Is that the day you saw Mr. Robinson on the way out Mt. Ephraim Avenue when you were at the Homeopathic Hospital?

A. I don't know whether that was the day or not.

Q. Did you see him?

A. I saw him one day when I had his car.

Q. Which did you purchase first, the plant or the shovel?

A. I think it was the plant.

Q. Where did you purchase the shovel?

A. At Weyland's hardware store on Mt. Ephraim Avenue.

Q. The lady's store that was here?

A. Yes.

Q. That testified?

A. Yes.

Q. Why did you purchase the shovel?

A. To bury the money.

Q. That store was about a square from your home, wasn't it?

A. Yes.

Q. Why didn't you go home and get a shovel instead of buying one?

A. We didn't have a small shovel at home.

Q. You didn't have any coal shovel?

A. No, not at that time.

Q. Did you have any coal?

A. Yes.

Q. Then you bought a shovel and went right out to the cemetery?

A. Yes.

Q. Right straight out?

A. Yes.

Q. You did not return to your home again?

A. I don't know whether I stopped home or not. I think I did; I think I stopped home and left the shovel there, threw the shovel in the yard.

Q. That is on your way back?

A. On the way back, yes.

Q. Now, then, Mr. Schuck, if you took that package of money out of there wrapped up in newspaper with the intention of throwing it into the Broadway Trust Company and changed your mind and went to the Evergreen Cemetery and buried the money, how does it happen that it was in two packages?

A. I think that I changed, shifted the packages out in the graveyard.

Q. You did what?

A. Shifted the packages when I was in the graveyard.

Q. What do you mean, shifted the packages?

A. Made two bundles, I just forget how I did get those two bundles together.

Q. Now, you went to the Evergreen Cemetery with one bundle, with the money wrapped up in the newspaper by what you say; now, what did you shift it for in the cemetery?

A. I don't know; I know there was two bundles there.

Q. I know there were two bundles; well, why were there two bundles?

A. I think I know what that reason is, but I don't know whether I put that in my statement or not. It was on the Saturday night that I met Mr. James and gave him that money, that he had told me he

was going away, that was the reason I gave him the money, he said things were getting hot for him and he was going to go away, and after I took the money to him, he said he didn't think he would go, because the girl he had with him wouldn't go with him at that time, and then he told me, I believe, that he had a room or apartment or something on Green Street where he was going to stay, and asked me to come over Monday night, and when I came over Monday night to bring him some more money, I think he said the girl was going to go with him then, and they were going away, and I believe when I went over there Monday night, I forgot the address, I could not find the place, and I had this other package of money with me that you are speaking of that night, and then—that is right—it was the following day—I remember now—it was the next day that I put that second package in the graveyard.

Q. Now, you have a very distinct recollection of that now, have you?

A. I remember taking it in there.

Q. Why didn't you have it when I first asked you?

A. I did not think of it.

Q. You didn't think of it when we took your statement, either, did you?

A. No, I told you I didn't think into every little move in the case.

Q. You didn't think of it when we took your statement on October 23rd, did you?

A. No.

Q. You did not think of it when you talked to me before you went to the Grand Jury, did you?

A. I don't know whether I did or not.

Q. You did not speak of it to me, did you?

A. Is it in my statement?

Q. No.

A. Well, then, I did not think of it at the time.

Q. You did not think of it when Mr. Parker took your statement on November 5th, did you?

A. If it is not in my statement I did not, no, sir.

Q. Well, it is not.

A. Then I did not think of it.

Q. You did not think of it on November 6th when I took your statement, did you?

A. If it is not in my statement I did not think of it at that time.

Q. You did not think of it when I took your statement on November 7th?

A. If it is not in the statement, no, sir.

Q. And you did not think of it on November 10th when I took your statement?

A. If it is not there I did not think of it at that time.

Q. You did not think of it a minute ago when I asked you the question, did you?

A. In other words, you think I am just framing that up?

Q. I don't think your counsel would want me to answer that question, Mr. Schuck. You did not think of it a minute ago when I asked you about it?

A. Nevertheless, that is the truth.

Q. What is it?

A. That is the truth; I was over there.

Q. Then why didn't you tell me as soon as I asked you?

A. I did not think of it at that time.

Q. It just came to your mind?

A. You questioned me close on it, that brought it to my mind.

Q. It just came to you at that moment?

A. I just happened to think of it, yes.

Q. Now, that is all wrapped up in a suit-case, isn't it, a part of a suit-case?

A. Yes, straw of some kind.

Q. Where did you get the straw from to wrap it up?

A. It was down in my cellar.

Q. And where did you get the tape from?

A. At my home.

Q. Now, then, this money that was in this smaller package was James' money, was it?

A. That money was never divided.

Q. That was the money you had taken to give to James you say?

A. That is the money that I took over that Monday night, yes.

Q. You took money Saturday night and gave him, didn't you?

A. Yes.

Q. Then you took money on Monday night to give him?

A. Yes, sir.

Q. Was it in that condition when you took it to him? (Showing witness package.)

A. It was wrapped up in that, I think it was.

Q. When you took it to him?

A. I think—no, not when I—I don't know whether it was or not.

Q. That was wrapped up that way for burying, wasn't it?

A. I don't know; I can't remember now whether it was or not. I know I took it over; I don't know whether I took it in that form or not.

Q. Why would you take your money in a newspaper and bury it and take his money to him in a piece of suit-case with tire tape around it when you did not intend to bury it?

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A. Probably there wasn't any more newspaper there and I took that.

Q. You had exhausted all the newspapers in your home by wrapping money in them, had you?

A. I suppose so, I don't know.

Q. And was that the reason that you got this top out of a suit-case and wrapped it up this way for James?

A. I don't know, I suppose I couldn't find a newspaper and I put that around it.

Q. And was it you that got it and made this covering for it?

A. Yes.

Q. Was it you that got the tire tape and put around it?

A. Yes.

Q. And was it you that took it to Philadelphia?

A. Yes, sir.

Q. And you did not see James?

A. No, sir.

Q. And you brought it back?

A. Yes, sir, took it to the cemetery and buried it.

Q. On Tuesday?

A. It was Monday night, I believe, I took it over there, but I buried it on Tuesday.

Q. How did you get to the cemetery?

A. I think I had Mr. Robinson's car that day.

Q. You only borrowed it for a few minutes the day before, didn't you?

A. Yes, but I had it Monday evening and I had not returned it.

Q. Where were you with it Monday evening?

A. Philadelphia.

Q. Where?

A. To a friend of mine, took her sister for a ride.

Q. You didn't come back all night, did you?

A. Yes, I was home that night.

Q. Were you home all day Tuesday?

A. After I returned Mr. Robinson's car I think I went back and went to bed; I was sick.

Q. On Tuesday?

A. On Tuesday.

Q. Then you had made your second trip to the cemetery?

A. On Tuesday.

Q. Now, the first day you took a plant, didn't you?

A. Yes, sir.

Q. So as to divert suspicion if they saw you, is that right?

A. Yes, sir.

Q. Did you take a plant the second day?

A. No, sir.

Q. Why not?

A. I don't know, I didn't take it, that is all.

Q. How did you bury this—where did you get the shovel?

A. I don't know whether I used a shovel that day; I don't believe that package was buried very deep.

Q. As a matter of fact, this package was buried even deeper than the other one, wasn't it?

A. No, sir.

Q. You know the difficulty that was found in finding it that night—wasn't it?

A. It wasn't buried deeper than the other.

Q. Was it not buried at least eighteen inches below the ground and in that position? (Indicating.)

A. It was in that position, but it wasn't buried that deep.

Q. And it had a flower pot over the top of it like that, didn't it?

A. Yes, I remember putting that on there.

Q. What was your reason in burying that straight down and then putting a flower pot on top of it?

A. I don't know.

Q. Was it done to protect it from moisture?

A. I don't know; I just put it on there; I don't know.

Q. Was this put on to protect it thoroughly from moisture?

A. I don't know.

Q. What reason did you have for burying this wrapped up in a suit-case, part of a suit-case, with tape around it closed at both ends, and put in a vertical position eighteen inches under the ground and with a flower pot on top of it, in the position that I am indicating with my hand?

A. I don't believe it was eighteen inches under the ground.

Q. How many inches was it?

A. Well, it wasn't eighteen inches, because there was a little piece of wire, or something, a screw driver or something that one of the detectives had in their car that was probing into the ground—I told them the flower pot was there, if they probed around they would hit the flower pot, and they discovered it in that way.

Q. What reason did you have for putting the flower pot on top of it?

A. I don't know.

Q. And then covering that with dirt?

A. I don't know.

Q. You covered the flower pot with dirt, didn't you?

A. It was covered, yes, but that bundle was not buried deep.

Q. So that this was James' money, was it?
A. I was taking that over to Mr. James.
Q. That was his money, was it?
A. I was taking that over to Mr. James.
Q. Was it his?
A. I was taking it over to him.

The Court: Well, the question can be answered; the answer, Mr. Schuck, is not responsive to the question; the question can be answered either yes or no. Was it his?

The Witness: Well, you see, your Honor, I was taking that over to him; now, it was all his, all of it.

Q. Now, in the afternoon you wrapped it up in a newspaper, is that right, with the intention of taking it back to the Broadway Trust Company—didn't you?
A. That was Monday.
Q. Yes, Monday, is that right?
A. Yes, sir.
Q. You went to the Broadway Trust Company and said you did not have a chance to put it in?
A. Yes, sir.
Q. Then you went to the cemetery to bury it, is that right?
A. Yes, sir.
Q. Now, when you got to the cemetery you said you opened the package and divided it into two. If you had the intention of giving it back to the Broadway Trust Company before taking it to the cemetery to bury it, why did you open the package and divide it?
A. Well, I wasn't sure.
Q. Wasn't sure of what?

A. Whether I opened the package there or not.

Q. Where did you open it?

A. Why, I don't know, I can't remember. There is little details all through that stuff that I don't remember; I can't remember every little thing that happened.

Q. Mr. Schuck, you told me you had it all in one package?

A. I know, but most of the stuff I am telling you is imagination of mine.

Q. What is that?

A. It is imagination, things that happened I am not sure of; I am not positive of some of these things.

Q. Are these threats of James an imagination of yours?

A. No, he made them.

Q. How can you tell when you have got a real fact and when you have got an imagination then?

A. Why, because I never followed up all the details, every movement and everything, everything I said and everything I done on these trips; I can't remember.

Q. Nothing that James has done that you have testified to is the result of imagination, is it?

A. I know that he threatened—

Q. Is there anything that you have testified as to what he has done that is imagination on your part?

A. I know he threatened me.

Q. There is no imagination about that?

A. No, sir.

Q. But there is an imagination in your mind that maybe you did not open it at the cemetery then as you said you did?

A. I don't know, I was in a hurry and everything, and I don't know whether I did or not.

Q. Was there any imagination that you went to the Broadway Trust to throw it in the bank?

A. No, I was down there.

Q. That was a fact?

A. Yes, sir.

Q. There was no imagination that you bought a plant and shovel and went to the cemetery in Harry Robinson's car, is there?

A. I did that.

Q. There is no imagination that you bought a plant to divert suspicion?

A. I did that.

Q. Is there any imagination then that you opened the package and divided it at the cemetery?

A. Well, I can't remember that.

Q. You testified to it a minute ago?

A. Yes, but I was not sure.

Q. Are you giving testimony that you are not sure of?

A. Some things.

Q. Then that which you testified to positively a minute ago you now say you may not have done, is that right?

A. Yes, sir.

Q. Then if you did not open it at the cemetery, then where did you open it?

A. You mean the two bundles that were separated that way?

Q. Yes.

A. I think it was at my home on Monday, I think—yes, I remember now.

Q. Then you brought that whole bunch—

Mr. Carrow: Now, Mr. Wolverton—

A. I remember now separating that money at my home on Monday. It was before I wrapped up the

large bundle that I made up that small bundle to take to Mr. James.

Q. What is that?

A. When I wrapped up that large bundle, that was when I wrapped up that small bundle to take to Mr. James. That was on a Monday.

Q. Then you didn't wrap it all up into one package then and take it away from your home, did you?

A. No, that was at my home.

Q. Why didn't you say that to me a minute ago?

A. I didn't remember it. I told you two or three times I can't remember every little thing like that. I notice once in a while your memory isn't clear, too.

Q. Let us make sure. You first said you wrapped it up at home and took it with the intention of throwing it all in the bank; you wanted them to have the money back. Then I asked you how it happened that it got into two packages instead of one, and you said that after you got to the cemetery you divided it and buried one package and brought this back and took it to James in Philadelphia. Now you say you brought the whole package back and that you divided it at your home. Now, which one of those two statements is correct?

A. Since I have been going through talking about this money, the thing has come to my mind more clearly about it, and I think I could give the story best if you would just let me talk right on through about it.

Q. Well, I think we can get it just as well by you answering my questions. Now, which one of those two is right?

A. I separated the bundles at my home before I buried the large one. That is correct.

Q. You separated them before you buried the large one?

A. Yes.

Q. Then at the time you took the money back to the Broadway Trust Company you didn't intend to give the money back to the Broadway Trust Company, did you?

A. Yes.

Q. Well, how could you intend to give it back to the Broadway Trust Company if you divided it into two packages so you could take one to James that night?

A. I had a reason of doing that, but I can't remember just what that reason was.

Q. Had a reason for doing what?

A. For taking that money to Mr. James that night, or throwing the money in the Broadway Trust Company first and then taking it to Mr. James. I think it was that Mr. James was supposed to go away on Monday night and if he had that money and the other was returned he would read in the papers where the Broadway Trust Company got that money, he would be afraid to come back, and leave me out of this mess. It was something like that.

Q. Now, is that imagination?

A. No, that was my intentions.

Q. Why didn't you tell me a few minutes ago?

A. Well, I told you at the beginning of the story, at the time I made my statement, that if things come to my mind later that I would like to have the privilege of correcting them.

Q. And you want to correct them as you go along, now do you?

A. That is correct. I am telling you now I thought of that later.

Q. That applies equally well to the testimony you give, you want to correct it, even if it is only a minute or two after?

A. Well, it is correct.

Q. How many times do you want to correct this one statement? You have changed it twice. Is it right now?

A. I am telling you the truth now.

Q. Now, have you got it straight?

A. Yes, sir.

Q. Then at the time you took this money to the Broadway Trust Company you left one package at home, did you?

A. Yes, sir.

Q. And it was this package?

A. That is the package.

Q. And it was all wrapped up in cardboard like that, was it?

A. Yes, sir.

Q. And with this tape around it?

A. I believe so.

Q. And you did that because there was no other newspaper in the place?

A. I don't know. I think that was wrapped up the next day, before I took it to the cemetery that I wrapped that up. I believe when I took it to Mr. James I also had that wrapped up in newspapers.

Q. Then this was wrapped up in newspapers when you took it to Mr. James?

A. I believe it was.

Q. A few minutes ago when I asked you why you wrapped one in newspaper and the other in this, you said there was no more newspaper there.

A. Well, we get papers every night. Probably it was that paper that I used.

Q. Well, is that where you got the paper? Now, as a matter of fact, you didn't use any newspaper the next day, did you?

A. Was there a newspaper wrapped up that cemetery bundle?

Q. Then you say that when you wrapped the first package up there was no newspaper there; is that right?

A. I said I wasn't positive.

Q. Didn't you say that was the reason you used this?

A. Well, it was imagination at that time.

Q. Imagination?

A. Yes.

Q. Now, you recollect there was newspaper there and you wrapped it up and took it to James that evening?

A. I believe I got some newspaper somewhere and wrapped it up and took it over in newspaper that evening.

Q. Then, why didn't you bury it in the newspaper when he didn't take it?

A. I couldn't find him.

Q. Well, you still had the package of money, didn't you?

A. Yes.

Q. Well then, if it was already wrapped up in newspaper, why didn't you bury it in newspaper?

A. Probably I put that around to protect the money from the dampness or the rain or something.

Q. Isn't that what I asked you a little while ago and you said no?

A. Well, I am not positive about these things.

Q. Then you took the newspaper off after you got home, did you?

A. I don't know whether the newspaper was under that or not.

Q. No. No newspaper under it.

A. You opened it. You ought to know.

Q. Yes, I opened it.

A. Well, I say I don't know whether there was or not.

Q. Well, if there was newspaper around it—we will put it that way—why did you then put this around it?

A. Probably to protect it from the dampness.

Q. Then you put it there with the intention of it staying there, didn't you?

A. I put it there—I knew that some day it would be returned to the Broadway Trust Company.

Q. If you put it there with the intention of it staying there, you didn't intend to return it to the Broadway Trust, did you?

A. I certainly did. I had intentions of returning it.

Q. Then if you wanted to protect this small package from moisture so that when the day came you could return it, why didn't you cover the big package and protect it from the moisture?

A. I think the big package had plenty of papers around it, didn't it?

Q. Had newspapers around it, yes. How does it happen, Mr. Schuck, that this money was wrapped this way, and your money—at least, the money you took there in the first place, was wrapped in newspapers?

A. I just wrapped it up in newspapers, that is all.

Q. Had there been a division of the money?

A. No, sir.

Q. How did it happen then, in this package that you took there the first day there was $21,120, so nearly a half? Was that difference of amount due to the fact that, as you have said, you got mixed up in your counting?

A. No, sir.

Q. Well, how does it happen that it was divided into just about half?

A. I don't know. That money was never divided between us.

Q. Well, it seems to be divided. Who divided it?

A. It may seem to be, but that wasn't necessarily so that we divided it.

Q. Who divided it?

A. Divided what?

Q. The money.

A. The money was never divided.

Q. Well, it is in two packages. That is what I mean by division. What do you mean by division?

A. Well, it is in two packages.

Q. It was in two packages?

A. Yes.

Q. You mean it wasn't divided some for you and some for James?

A. That is it.

Q. But it was divided into two packages?

A. Two packages there, yes.

Q. And this is what you took over to James?

A. Yes.

Q. Is that right?

A. Yes.

Q. $9160?

A. I didn't know how much money was there. I never counted any of the money all the way through.

Q. Had you given him a roll of money the night before?

A. You mean the money that I left——

Q. Yes.

A. I think I give that to him on Friday night before.

Q. Saturday night, wasn't it?

A. No, I believe I told you Friday night, or I said I wasn't positive.

Q. Well, it is immaterial, either Friday or Saturday. You gave him a large amount of money, did you, a large package——

A. Saturday night.

Q. —— between 4500 and 5000 in it, did you not?

A. I don't know how much money was there.

Q. Now, Schuck, on Saturday night, I have just asked you, or Friday night, you were not sure which, you took to James a package of money, did you not?

A. That was Saturday night I took him that package of money.

Q. Yes, Saturday night. I think that is right. How much was in the package?

A. The one I took to him Saturday night?

Q. Yes.

A. I don't know.

Q. Is that it?

A. I don't know.

Q. Didn't you tell us that you took him $5,000?

A. I may have said that, but I am not positive.

Q. Did you take him that much?

A. I don't know.

Q. Well then, you did take him a package of money the size of that, did you?

A. I don't know whether that was the size or not. I think it was smaller than that, if I am not mistaken.

Q. Did he ask you then to bring him more money?

A. I believe he did.

Q. So that when you were going to the Broadway Trust Company, then you were only going to return a part of the money, which was this, is that right, just about one-half?

A. I don't know whether it was one-half or not. It was the large bundle that was buried.

Q. Was it any larger than that?

A. I just forget the size of it.

Q. But you knew you were not taking it all there?

A. Yes.

Q. And that you were going to take some of it to him that night?

A. Yes.

Q. Now then, how much did you keep out after you buried this or before you buried that and before you gave James this on Monday? How much did you take out?

A. I don't know.

Q. Took some out, didn't you?

A. I don't know whether I did or not.

Q. Well, you know whether you wrapped up all the money you had from Paul in that package or not?

A. I don't know whether I did or not, whether it was all took there or not or whether I had some in my pocket or not.

Q. Did you take any out of the package that you had for James to deliver to him Monday night when you say you didn't find him?

A. I don't know.

Q. Well now, on Monday you wrapped it up and buried this package and left the cemetery. You didn't open that again after it was buried, did you?

A. No, sir.

Q. So if you took any out, you took it out before you put it in the burial lot?

A. If I had any with me, it must have been taken out before.

Q. Did you take any out of the package?

A. I don't remember.

Q. Did you take any out of the package that you took over to James and then brought back to Camden?

A. I don't know whether I did or not.

Q. Where did you keep it over night, the one that you had taken for Mr. James?

A. Mr. Robinson had told me to take the car and put it back on Line Street, back where he works, and it was so late when I got through I was afraid to drive back there, it was so far back on Line Street, back by the creek, and instead of taking it back I let the car and the money stay out front all night.

Q. The money, too?

A. Yes, sir.

Q. Where did you have it?

A. I think it was under the front seat of the machine. It was in the machine some place.

Q. Where?

A. It was in the machine some place. I think it was under the front seat.

Q. What was your idea of leaving the money outside if you were so anxious to get it to the Broadway Trust Company?

A. I made up my mind that I wouldn't take that money back in my home again.

Q. For any reason?

A. That was about the only reason.

Q. Was anybody home?

A. My wife.

Q. You left it out all night?

A. Yes, sir.

Q. Then you took it the next morning and buried it?

A. Yes, sir.

Q. Did you go to work at all that morning?

A. I don't believe I worked that day.

Q. Did you bury it in the morning?

A. I think it was around noontime.

Q. Where did you get the flower pot from that you put over the top of it?

A. That was from the flower of the day before, I believe.

Q. Well, where was the pot?

A. I suppose it was there in the lot.

Q. Then what reason did you have for putting the pot over the money?

A. Just to protect it, I suppose, from dampness or rain or something.

Q. Did you take any money out before you went there?

A. I don't remember whether I did or not.

Q. So that your intention on Monday was to return all of the money except what you were going to give James; is that right?

A. Yes, sir.

Q. And then the next day when you put this away, was it with the intention that James could have it or that you would return it?

A. I knew that as long as the money was in my possession it would be returned some day to the proper people.

Q. So that then you put this away with the idea of returning it?

A. Yes, sir, at that time.

Q. So from that time you had no other thought than to return everything you could to the trust company; is that right?

A. Yes, sir.

Q. Previous to that you had spent considerable, hadn't you?

A. I don't know how much money was spent.

Q. Had you given any money to your wife before you buried this package?

A. I don't know whether I did or not.

Q. Hadn't you given her money, as a matter of fact?

A. I think I did give her something.
Q. Did you let her keep it?
A. I don't believe so.
Q. What is it?
A. I don't believe so.
Q. How much did you give her?
A. I think it was around $60.
Q. When did you give her that?
A. I just don't remember the time.
Q. Was it before you buried this?
A. I believe it was.
Q. And then you got it back from her, didn't you?
A. Yes, sir.
Q. You told her not to put it in the bank, didn't you?
A. I don't know whether I told her that or not.
Q. Well, why did you give her money and then take it away from her?
A. I don't know.
Q. You only gave her $60?
A. That is all I can remember.
Q. And then took it away from her afterwards?
A. Yes, I believe I did.
Q. What did you take it away from her for after giving it to her?
A. I don't know.
Q. Did you buy anything for the home?

Mr. Carrow: Oh, if your Honor please, I think the Prosecutor is going at too great length in this cross-examination.

The Prosecutor: I want to know the amount of money that he had and that he spent.

The Court: That question is permissible. I will allow it.

Mr. Carrow: The last question that was asked is not a fair question to ask, "Did you buy anything for the home." It does not convey what the Prosecutor means.

The Prosecutor: Yes, it does; exactly.

Mr. Carrow: The Prosecutor, as I understand it, is seeking to find out from this witness how much of this Paul money he spent. Now, this witness might answer that question, "Did you buy anything for the home"——

The Court: I think, Mr. Wolverton, that perhaps Mr. Carrow's objection is well founded in that it should include whether he spent any of the Paul money.

Q. So there will be no misunderstanding, when I speak of money, I am referring to the Paul money each time. Did you spend any of the Paul money on your home in any way, or in your home?

A. I don't remember whether I did or not. I don't remember.

Q. Did you buy coal for the house out of it?

A. I don't know whether I bought that coal with the Paul money or not. I may have, but I am not positive.

Q. How much was your salary?

A. Eighty dollars a month.

Q. Now then, after you gave the wife the $60, how long did you let her have it before you took it away from her?

A. I don't know how long she had it.

Q. Had you gotten it back when you put this money away?

A. I don't remember.

Q. Or did you get it back before you put this package away which you had taken over to James?

A. I don't remember.

Q. The reason I asked you that, I see it is $9,160, and I was wondering whether the sixty is that in the package. Do you know?

A. I don't remember whether I did or not.

Q. But you do remember getting it back?

A. Yes, I think I did get it back.

Q. Well, if you don't remember whether you put it in the package, do you remember what you did with it after you got it back from her?

A. No, I do not.

Q. Well, after the money was buried, what moneys did you spend of this Paul money?

A. I don't know. I admit that I did spend some of the money.

Q. You spent considerable, didn't you? After you had buried this Paul money you bought a diamond ring for $210, didn't you, off of jeweler Shaw right across the street here?

A. I bought that ring, yes.

Q. That was bought out of the Paul money, wasn't it?

A. Yes, sir.

Q. You went away for a while? Did you not?

A. Yes, sir.

Q. How much did you spend while you were away?

A. Do you mean on the trip I took down in the country?

Q. Yes.

A. I don't remember how much it was. I know it wasn't much. I know that because where I was Mr. Hickman didn't charge me any board for being there all week.

Q. You left money there, didn't you?

A. What do you mean, Mr. Wolverton, by leaving money there?

Q. Did you leave any money there for their accommodation to you?

A. I don't know whether I did or not.

Q. Did you buy any new clothes for yourself out of this money?

A. Not that I can remember at present.

Q. Did you tell us the day you were arrested that you got that coat, showing us a light overcoat?

A. Oh, yes, that is right, I did buy that.

Q. You bought that out of the Paul money, didn't you?

A. Yes, sir.

Q. You bought a hound dog out of the money, didn't you?

A. Yes, I did.

Q. When you were away?

A. I remember that now.

Q. What is it?

A. I remember that now. I did.

Q. And you bought a lot of other personal effects for yourself, didn't you, out of this Paul money, from Chance's store down in Newport?

A. I bought some things, but I don't know whether I bought all that stuff with the Paul money or not; I had some money of my own.

Q. So that after you put this money away, you still had some of the Paul money in your possession then, didn't you?

A. I think I did, yes.

Q. So that you had not—when you said you intended to return everything to the Broadway Trust Company you had not in mind to return everything to the Broadway Trust Company, did you?

A. Well, I had that in my pocket.

Q. Well, you did keep some out?

A. I had some with me, yes.

Q. Now, how much did you keep out?

A. I don't know.

Q. How much did you pay for your coat?

A. I don't know now how much it was.

Q. Was it $35.00?

A. I think it was somewhere around there.

Q. How much did you give to Robinson for his car after keeping it a week from him?

A. Forty or fifty dollars.

Q. You gave him $10.00 the first day, didn't you, and then you gave him $50.00 the next time, didn't you?

A. I don't know the exact amount; I know that I did——

Q. It was about that, wasn't it?

A. Yes, I guess it was.

Q. And that was part of the Paul money?

A. Yes, I guess it was.

Q. And you bought your hound dog for $35.00 didn't you?

A. Yes.

Q. That was part of the Paul money, wasn't it?

A. Yes, sir.

Q. Now, the $60.00 you gave your wife, that was part of the Paul money, wasn't it?

A. Yes, but I don't know whether that was put back or not.

Q. Could there be any reason for taking that from your wife and putting that back and then keeping this other yourself?

A. Well, I might have spent it, I am not positive.

Q. This ring of $210.00 was part of the money, the Paul money?

A. Yes, sir.

Q. So that all of this was kept out; now, how much more did you keep out?

A. I don't know.

Q. Well now, you also gave Mr. Walsh, the attorney for James, $150.00 as a fee, didn't you, after James was locked up?

A. Yes, I did that.

Q. That was part of the Paul money, wasn't it?

A. Yes.

Q. And that was after this money was buried, wasn't it?

A. Yes, sir.

Q. So that, is there any more money that you kept out?

A. Not that I can remember at the present time; there may have been.

Q. Have you any idea how much you did keep out?

A. No, I never kept any account of the money.

Q. Now, how did you get the money to Mr. Walsh representing James in this matter?

Mr. Carrow: Just wait a minute, Mr. Schuck. If your Honor please, I think we went all into that last Friday.

The Court: What is the question?

Mr. Carrow: The State's own witness, I think, Mr. James, testified to that.

The Court: Just wait a minute, Mr. Carrow; Judge Kates was speaking to me just as the question was asked and I did not catch the question.

(Question repeated.)

The Court: Yes, I think the witness can be asked that question.

A. That must have been some of the Paul money.

Q. How did you get it to him?

A. I just forget how I got it to him through Mr. Walsh.

Q. Who brought you the request?

A. Mr. Walsh, I believe.

Q. Where were you when he brought it to you?

A. I think I was in the city hall talking to my father.

Q. Did you give him the money when he asked you for it there in the city hall?

A. I forget whether I gave it to him then or not.

Q. Didn't you leave it at a saloon for him?

A. I don't remember.

Q. And didn't you give it to somebody to give to him?

A. I don't remember whether I did or not. I know that I gave it to him.

Q. And did you not in answer to my question, "Would you prefer not to tell—was it a relative?" You said, "Yes," and I said, "Would you prefer not to tell who?" and you said, "Yes"—now, is that right or not?

A. Yes.

Q. That is right?

A. Yes.

Q. When was this request made to you for this $150.00?

A. You mean the day?

Q. Yes.

A. I just don't remember the day.

Q. Was James locked up?

A. I believe he was.

Q. So then this was subsequent to October 16th and you still had some of the Paul money?

A. If that is when Mr. James was arrested, yes.

Q. And you knew he was under arrest?

A. Yes.

Q. How long had he been arrested when you gave this fee of $150.00 to an attorney to represent him?

A. I don't know how long it was.

Q. And did you afterward speak to Frank Voigt and ask him how to get James out?

A. I was talking to Mr. Voigt, but I don't remember just what was said.

Q. Did you tell him, ask him what right the authorities had to hold a man in jail when he had not done anything?

A. I may have said that.

Q. And did you ask whether there wasn't something he could do to get him out?

A. I don't remember saying it.

Q. Well, will you say that you did or did not?

A. Well, I am not positive; I wouldn't like to say yes or no.

Q. Now, this was on the 11th, that you buried the first package of money, and now you say on the 12th, you buried the second package of money, is that right?

A. Yes.

Q. How is it that you did not say that in any of your statements?

A. Well, I told you before that I did not think of every little thing in my statement.

Q. Now, when did you bury the body?

A. That was on the 14th of October.

Q. Had you worked that day?

A. I think I was in the office in the morning.

Q. And where did you and James meet?

A. I think Mr. James was out at my home when I got there that afternoon.

Q. Now, where had you been the day before with James?

A. Oh, the 13th, that was, Mr. James came to my home; I was sick in bed.

Q. Then you were not working that day?

A. No, sir.

Q. And Mr. James came to your home; where did you go with him?

A. Down—he had a roadster with him, I think he said it belonged to Mr. Ward down——

Q. And what did you do?

A. Drove down the country; he said he wanted to get his machine, he was having it repaired or something, and he wanted me to drive one of the cars back.

Q. And you went with him and he got his car; then what did you do?

A. After he got his car we rode down the country and he told me to meet him at a certain place to go buy him a cushion.

Q. Why did you go down the country?

A. I don't know.

Q. Did you ask him why?

A. No, we just simply rode down.

Q. Well, where did you go, what happened?

A. I think that Mr. James said there was some blood spots or something on the car, and if the authorities had picked the car up, he would have been caught, or something like that, and he went down the country, and I believe he was washing the stains off while I went to buy the cushion.

Q. Then before you started, he told you there were some stains on the seat?

A. It was down there somewhere, yes.

Q. And then he stopped and tried to get the stains off, and what did you do?

A. I went to Kirkwood at Nicholson's garage and bought a rear cushion.

Q. Why did you do that?

A. Because he wanted me to go down and buy it; he said there was blood on his rear cushion, I believe.

Q. Did you pay for the seat?

A. Yes.

Q. And was that money part of the Paul money?

A. I am not positive whether it was or not; it may have been.

Q. Then when you got the seat, what did you do?

A. I returned to Mr. James, where I was to meet him, at first he wasn't there, and I waited until he came along, and he told me he had been down to the stream trying to scrub, to wash some of the blood off, or something.

Q. Then what was done with the floor boards?

A. We drove from there further on down the road.

Q. Well, the floor boards were thrown away, weren't they?

A. Yes, right—just before we left there, I think.

Q. And this was in the vicinity of Clement's Bridge?

A. Before we got to Clement's Bridge.

Q. Yes, but I mean in that vicinity?

A. Yes, sir.

Q. Why the boards thrown away?

A. Because they had blood on them, I believe.

Q. Then where did you go with James?

A. Do you mean from where we threw the boards?

Q. Yes.

A. Why, down at—I can't think of the name of that creek that runs through there, Clementon Creek, where I took you to find the cushion.

Q. Now then, did you talk with James about where you had hidden the money?

A. I think he asked me one day where it was and and I told him that it was in the New Camden Cemetery.

Q. Did you say on what grave?

A. I told him it was buried in my mother's lot, I think, in my father's lot.

Q. In the New Camden Cemetery?

A. Yes, sir.

Q. That is not the Evergreen Cemetery, is it?

A. No, sir.

Q. One is on one side of the street and the other on the other?

A. Yes, sir.

Q. Was it in your mother's grave at that time?

A. No, sir.

Q. When did you tell him that it was there?

A. I think it was on the 13th.

Q. The day you were out in these cars together?

A. With both machines, yes, sir.

Q. Now, did you go to work at all on the 14th?

A. I think I was in the office in the morning.

Q. What is it?

A. I think I was in the office in the morning.

Q. And in the afternoon you were home, is that right; were you at home in the afternoon?

A. Yes, sir.

Q. Where did you meet James?

A. James was out front with his——

Q. Where did you go with him?

A. I went out and he said something about, "Get in the car," I wasn't feeling well and he came around and told me to get in the car and I got in, and as we were driving along he told me he was going up in the country to bury Mr. Paul's body.

Q. Did you go?
A. Yes.
Q. Did you stop any place on the way?
A. Yes.
Q. Where?
A. At Medford.
Q. For what purpose?
A. There was two shovels and a rake bought.
Q. Who paid for them?
A. I did.
Q. Was that out of the Paul money?
A. I don't know whether it was or not.
Q. What were the shovels bought for?
A. To dig the grave.
Q. Where did you go after purchasing the shovels and rake?
A. Up to where Mr. Paul was placed.
Q. When the car was stopped what did you do?
A. I think Mr. James went in the woods at first, and I believe he hollered back that Mr. Paul wasn't there, if I remember correctly the first time; then I waited a little while and finally he say, "Yes, he is here, it is all right."
Q. Then what did you do?
A. I believe Mr. James came out then and got a shovel and went back in and tried to dig.
Q. What were you doing?
A. I was out on the road or in the machine.
Q. Then what happened?
A. I believe he came out of there then and said he couldn't dig, there was too many roots or something, and walked up the road further to where the place was.
Q. Did you go with him?
A. I was there, yes, sir.
Q. Did you go with him?

A. I was up there all the time, sure.

Q. Where the grave was dug?

A. I was there, yes, sir.

Q. Did you help dig it?

A. Yes, sir.

Q. Then what did you do?

A. Mr. James went back and went in the woods and started to drag Mr. Paul's body up.

Q. What did you do?

A. He called for me, he said he could not get it out, and I told him that I didn't want to go in, if I looked at the man's body it would make me sick, and he——

Q. What did you do—did you help pull the body out?

A. Yes, I finally went in and Mr. James gave me—

Q. What part of the body did you take?

A. I think he gave me his foot.

Q. What?

A. I think he handed me his foot.

Q. What part of the body did he have?

A. The other foot, I believe.

Q. How far did you drag him?

A. I got sick at my stomach, I know, and I dropped the foot and went out on the road, and when he got to the road—he said something about—he used some vile language, he said he could not do it alone, that the only way he could do then was to get a rope and drag his body up the road, so he got a rope and tied it to Mr. Paul.

Q. Then what did you do?

A. After he dragged the body up, he untied it and started to pull Mr. Paul toward the grave.

Q. Did you help him?

A. Only at one time, when he couldn't get the body up over a little embankment.

Q. You helped pull it, pull the body?

A. Over that little embankment, yes. When I pulled I got sick at my stomach and I started to run down the other way toward the creek, and I was spewing all along the road.

Q. The body was then put in the grave?

A. I was down at the creek, yes; Mr. James put it in the grave.

Q. Did you go back and help pull it up?

A. Yes, he called me back, said he was all in, that the body was covered up, all but a few shovels, and told me to come back.

Q. And you went back and helped fill it up?

A. Yes, sir.

Q. Then you returned, did you not, to Camden?

A. Yes.

Q. What was done with the shovels and rake?

A. They were thrown out along the road, I think the rake was thrown out before we got up there.

Q. After you got back to Camden did you see anything more of James?

A. I think the following Saturday I saw he and his wife together on Federal Street.

Q. That same day, that evening, you learned of the finding of Paul's body, didn't you?

A. I believe it was on Sunday evening.

Q. And you learned at the same time that James was under arrest, didn't you?

A. I did not know at that time that he was under arrest.

Q. When did you first learn that he was?

A. The following week sometime, I know that I was sick in bed that week.

Q. What is it?

A. I say, I was sick in bed with a nervous breakdown that week.

Q. Then after he was arrested people started to talk to you about James, didn't they?

A. Yes.

Q. Why did they talk to you about James?

A. Only because I was a friend of his, I suppose.

Q. Did you tell Helen Dean that you did not know anything at all about it and you didn't think Frank James did either, they had him wrong.

A. I may have said that.

Q. Did you say to Mr. Hickman that you wouldn't even know this man Paul if you fell over him?

A. I did——

Q. Wait a minute—that you had never seen him, and that your idea of it was that a couple of girls had gotten him and copped him off, is that right?

A. I may have said that.

Q. Did you say to Frank Voigt that you did not know anything at all about it, and that James didn't, and wanted to know if there was not some way to get him out?

A. I know I was talking to him, and I may have said that.

Q. Did you tell Mr. Wood of the Keystone Telephone Company when he called on you at your home that you did not know anything at all about it?

A. I may have told him that; I told—I know that I talked to these people about it, and they questioned me, but I can't remember the exact words, but I could not tell the truth.

Q. Did you talk to Mr. Abrams?

A. Yes.

Q. Did he advise you if you knew anything about it to go and tell the Prosecutor?

A. I don't remember, but he may have said that.

Q. Did you tell him that you did not know anything at all about it?

A. I may have said that.

Q. When your statement was taken at my office on October 23rd, did you not say that you did not know anything at all about it?

A. Yes.

Q. And when Mr. Parker—when I talked to you the night before you went to the grand jury at Mount Holly, did you not tell me that you did not know anything at all about it?

A. I think I told you that I had something else to say.

Q. That was the 13th and 14th, wasn't it, that you said you wanted to change?

A. I believe it was, yes.

Q. And asked you if there were any more changes that you wanted to make, didn't I?

A. You asked me some questions, but I just forget what they were.

Q. You did not tell me anything about it then, did you?

A. No, probably I would if you had questioned me a little more.

Q. And I had told you that I was the Prosecutor and anxious to get to the bottom of this case, hadn't I?

A. Yes.

Q. James was then locked up in the city hall?

A. Yes, sir.

Q. And you had already at the time you talked to me then given his attorney a fee of $150.00 to represent him, hadn't you?

A. Yes.

Q. And when Mr. Parker first had you under arrest by order of the grand jury, you told him you did not know anything about it, didn't you?

A. I may have told him that.

Q. And you called at your father's home many times after this happened, didn't you?

A. Yes, sir.

Q. And your father's home is just across the street from the police station, isn't it?

A. Yes, sir.

CHARLES H. DAVENPORT, sworn.

By Mr. Carrow:

Q. What is your name, Mr. Davenport?

A. Charles H. Davenport.

Q. Where do you live, sir?

A. 201 North 40th Street.

Q. Where?

A. Camden.

Q. Do you know the defendant, Raymond Schuck?

A. Yes, sir.

Q. Did you know his grandmother?

A. Yes, sir.

Q. Have you any—do you hold any official relation with the grandmother's estate?

The Prosecutor: If your Honor please, I can't see what relevancy it would have, a question of the grandmother's estate to this defendant on a charge of murder.

The Court: Well, of course, we will have to wait, Mr. Wolverton, and see what Mr. Carrow has in mind.

The Prosecutor: I will ask Mr. Davenport not to make any answers until I have had an opportunity to object.

Q. Has this defendant any money coming to him still, from his grandmother's estate?

(Objected to.)

The Court: Well, that question, Mr. Carrow, seems to me to be irrelevant.

Mr. Carrow: Well, if your Honor please, I am seeking to corrborate one of the reasons that Mr. Wolverton was so anxious to get out of this defendant for counting this money, he spent about two or three hours asking him that point, and the defendant answered him on the stand, and now this witness is here to corroborate the fact that some money was still due him.

The Prosecutor: Well, the money that I referred to was this money that had been taken from Paul, not money of the estate.

The Court: Well, you see, Mr. Carrow, I feel that that has no relevancy to the issues in this case. Mr. Wolverton, do I undertand that you objected to this question?

The Prosecutor: Yes.

The Court: The objection will be sustained.

Mr. Carrow: May I have an exception, if your Honor please?

The Court: Yes.

(Exception noted for the defendant.)

(Signed and sealed accordingly.)

FRANK S. KATZENBACH, JR.,
J. (Seal)

JOHN B. KATES,
J. (Seal)

(Witness withdrawn.)

EDWARD MEYERS, sworn.

By Mr. Carrow:

Q. Mr. Meyers, where do you live?
A. 1437 Kaighn Avenue.
Q. Are you in business in this city?
A. I am connected with the Ford agency here.
Q. In what capacity?
A. Sales manager.
Q. How long have you been with the Ford agency?
A. About six years.
Q. You are familiar with Ford automobiles?
A. I am.
Q. Are you familiar with the Ford automobile that belonged to Mr. James?
A. I am.
Q. Have you seen it recently?
A. I have.
Q. Have you taken any measurements of it?
A. I have.
Q. Now, Mr. Meyers will you tell us what the distance is between the back of the front seat and the

bottom of the car, the floor, and the front of the back seat, on that machine?

A. From the back of the front seat to the front of the rear seat, is that is?

Q. Yes, at the bottom.

A. Yes, at the bottom; 17 inches.

Q. Seventeen inches wide, that is?

A. Yes. That is from the back of the front seat to the front of the rear seat.

Q. That is it. Seventeen inches?

A. Yes.

Q. On the floor?

A. Yes.

Q. Now, what is the length this way, from door to door, on the floor?

A. From door to door inside is 44 inches.

Q. Forty-four inches? Now, what is the distance from the back of the top, back of the front seat, to the front top of the rear seat?

A. I believe I did give you that, Mr. Carrow.

Q. I was asking about the floor in the first place.

A. Yes, I see. Well, I gave you the measurement from the back of the front seat to the front of the rear seat above the floor. It is the same thing, however.

Q. It is the same thing?

A. Yes.

Q. Seventeen inches bottom and seventeen top?

A. Yes.

Q. Now, how far is it from the seat of the front seat to the roof of the car?

A. From the front seat to the roof of the car, three foot two inches.

Cross-examination.

By the Prosecutor:

Q. These are the standard measurements of the universal Ford car, are they not?

A. They are.

Q. And these measurements would be the same on every Ford car, wouldn't they?

A. On all touring cars, yes.

Q. But you had never measured them before, had you?

A. Yes, I have had occasion to answer that to several prospects.

Q. But not having anything to do with the sales points you didn't remember them?

A. Well, I didn't have the exact measurements of all the details.

By Mr. Carrow:

Q. But you have taken these figures from the actual measurements of Mr. James' machine?

A. I have, yes.

Ellis Parker, recalled.

By Mr. Carrow:

Q. Mr. Parker, you have already been sworn in this case, have you not?

A. Yes, sir; affirmed.

Q. And you are county detective of Burlington County?

A. Yes, sir.

Q. Do you remember having a conversation with Mr. James at the Mt. Holly jail in the presence of Mr. Berry in reference to the Paul murder?

A. Yes, sir.

Q. Did you at that time tell Mr. James that he nad better make a confession or statement to you or he would be indicted in Burlington County, and that it was better for him to go to Camden County, or words to that effect?

The Prosecutor: I object to this on the ground that it is irrelevant, immaterial and incompetent. The basis, probably, for this question was the question that was asked of Mr. James on cross-examination by counsel, on cross-examination, as I have said, and to which Mr. James made a reply. It was on such an immaterial matter—it was not in the direct examination of Mr. James, it was on an immaterial matter in his cross-examination, and under those circumstances I do not consider that any testimony in that respect by Mr. Parker is relevant to this issue.

The Court: Now, Mr. Carrow, will you just refer —of course, I will permit you to have Mr. Parker answer any question that you put directly to Mr. James for the purpose of discrediting Mr. James, but my recollection is that Mr. James testified that he did have this conversation with Mr. Parker, and what Mr. Parker said.

Mr. Carrow: That is, if your Honor please, that is just the point. Mr. James did say that he had a conversation and also told what Mr. Parker told him.

The Court: You did not put the question, "Did you tell Mr. Parker on such and such a day such and such a thing," did you?

Mr. Carrow: If your Honor will bear with me just a moment I will try to find it.

The Court: Certainly; but you must find it from the testimony of Mr. James.

Mr. Carrow: May I find out particularly just what you mean by that, just what you want?

The Court: I meant to say the testimony, in my opinion, of Mr. Parker as to what Mr. James said is not relevant unless you have laid the foundation for the contradiction of Mr. James by putting to Mr. James on cross-examination the question of whether he did or did not say at a particular time and at a particular place certain words to Mr. Parker and my recollection is that that was not done with reference to this question.

Mr. Carrow: Here, if your Honor please, are the questions I asked Mr. James on this particular point.

The Court: Which page is it?

Mr. Carrow: Page 408 of the fourth day's session, right at the bottom of the page, the last question. It is a question by the Prosecutor: "Mr. James, in answer——"

The Prosecutor: It is on re-direct. I think as a matter of fact, there had been an examination, a cross-examination, a re-direct, a further cross-examination and then another re-direct.

Mr. Carrow: No, there was a re-direct examination.

"Q. Mr. James, in answer to a question, by Mr. Carrow you said you did not say anything about Schuck to Mr. Parker in that statement. How was it taken, questions and answers?

"A. Which statement?

"Q. To which you referred a few moments ago, which you gave to Mr. Parker in the Mt. Holly jail, was it taken in question and answer form?

"A. I think so. I told Mr. Parker that I didn't want to make a statement and he said if I did not that night I would be indicted in Mt. Holly and he says, 'I will tell you what Schuck says so you can both say the same thing so you won't be indicted in this county,' and I said, 'All right,' and I made a brief statement.

"Q. Did you answer his questions?

"A. I don't recall whether he asked me or I told him."

You see, that is part of the State's case. Now, I offer this witness to contradict that.

The Court: Yes, I will allow that question.

(Question repeated.)

The Prosecutor: I have no objection to the counsel, if he wishes to ask Mr. Parker this, using these words, but he has added a great many more words and statements than what is in this testimony of Mr. James.

The Court: I do not mean, Mr. Carrow, to permit you to ask the witness any other question than simply that, of course.

Mr. Carrow: I will re-frame that question, then.

The Court: Yes. I take it that you should base it on this statement.

Q. You say, Mr. Parker, you remember having that conversation with Mr. James?

A. I do.

Q. Did he tell you before he made the statement that he didn't want to make the statement, and did you say if he did not make that statement, or he did not that night, he would be indicted in Mt. Holly, and did you then say, "I will tell you what Schuck says so you can both say the same thing so you won't be indicted in this county"?

A. No, sir.

Q. What did you say to him?

A. He told me that he would write it all out and sign his name to it and give it to me the next day, that he had just been called up out of a sleep and couldn't get his thoughts together, and I said, "Well, Mr. James, I have Mr. Berry here, who has taken your statement down in Camden, and if you want to you can make a statement and we will take it down." He says, "Mr. Parker, I don't believe I could really get my thoughts together, because you have called me out of bed." "Well," I says, " I will give you all the time to think that you want to. You can take your time." "Well," he says, "if I couldn't remember what—all about the stories, could I ask you any questions?" I says, "No, Mr. James; if I see you hesitate I will ask you some questions," and then he told me to call Mr. Berry in, which I did. I had previously recited what Raymond Schuck had told me, with the exceptions of two or three things.

Q. And did you tell Mr. James that if he did make any statement to you that it would be used against him?

The Court: Wait a minute, Mr. Carrow. That is beyond what I permitted.

Mr. Carrow: Yes, sir. This is on a new line. Now, I want to seek to introduce Mr. James' statement made at that time as part of the defense, use that statement as my own witness, and by that question I seek to establish that it was a voluntary statement on the part of Mr. James at that time.

The Court: Now, let us not have any misunderstanding. Do I understand you that you propose to, at this time, have Mr. Parker make a full statement of what Mr. James said to him or he said to Mr. James when the defendaant was not present?

Mr. Carrow: Well, no, not exactly that. I do not propose to have Mr. Parker testify to that, but I want the statement itself introduced into evidence.

The Court: The statement of what Mr. James told Mr. Parker?

Mr. Carrow: About this Paul murder; yes, sir. The defendant was not present.

The Court: Well, of course, it is not for me to make objections.

The Prosecutor: I thought I had objected.

The Court: I have not heard it. I anticipated you would, but I have not heard anything.

The Prosecutor: Oh, yes, I do.

The Court: Mr. Carrow, I would not permit you to do that, because, of course, Mr. James—in other words, the evidence of what Mr. James said to Mr. Parker could not have been used in this case against Mr. Schuck, and if you desire those statements for the purpose of discrediting Mr. James, of course you would have had to have laid the foundation in your cross-examination for the contradiction of Mr. James by anything he had said to Mr. Parker in his sworn testimony in this court.

Mr. Carrow: I think I did that, if your Honor please.

The Court: I think not. I mean to say not in this wholesale manner. I will permit you upon anything that Mr. James' attention was directed to upon your cross-examination to contradict him where you have laid the foundation, but not permit the introduction of this statement that Mr. James gave to Mr. Parker in this wholesale way.

Mr. Carrow: I asked Mr. James, if your Honor please, whether or not he made a statement to Mr. Parker in the Mt. Holly jail, and whether in that statement he——

The Prosecutor: May we have the exact words, Mr. Carrow?

Mr. Carrow: Yes. Page 403, about the last third of the page:

"Q. Do you remember the first statement that you made to Mr. Wolverton in Mt. Holly?

"A. I only made one there, I think.
"Q. Was that to Mr. Wolverton?
"A. Yes; I made one to Mr. Parker.
"Q. What is that?
"A. The first one I made was to Mr. Parker.
"Q. Did you tell Mr. Parker in that statement anything about this defendant striking any blows?"
Then the Prosecutor objected.

The Prosecutor: And the Court allowed the question.

Mr. Carrow: Yes,—"I will allow the question."
"A. I did not.
"Q. Did you make a statement to Prosecutor Wolverton in the Mt. Holly jail?
"A. Yes, sir.
"Q. Was it taken down stenographically?
"A. Yes, sir.
"Q. By whom?
"A. Mr. Berry.
"Q. In that statement did you say anything to the effect that this defendant struck Mr. Paul any blows?
"A. I did.
"Q. In your first statement, in the statement you made to Mr. Parker, did you say that there was no conspiracy between you and this defendant to rob Mr. Paul?
"A. I did.
"Q. Did you say that in your statement to Mr. Wolverton?
"A. No, sir."
Now, the witness admits that in his first statement, that he did not say anything about Mr. Schuck striking any blows, and he did not say anything about a

conspiracy to rob Mr. Paul, and in his second statement it was that he said he did not make those statements. Now my memory was a little at fault. It is the second statement that I wish, rather than the first.

The Prosecutor: Do you mean the second statement to me?

Mr. Carrow: No, the first statement to you, but the second statement of Mr. James.

The Prosecutor: Well, if the Court please, there is no foundation for that. James, when he was on the stand, was examined as to certain statements taken by Mr. Parker, and he gave his answers, and counsel now says he does not dispute the truthfulness of those answers, therefore there can be no reason for Mr. Parker's testimony.

The Court: No, I can see none.

Mr. Carrow: I frankly confess now that my memory has been freshened on that point that Mr. Parker is of no further use to us. Mr. James admits that he did not say that Schuck struck any blows, and he admits that he did not say there was a conspiracy to rob. That is all I was seeking to show on that point.

The Court: You see, you have it, all that you wanted.

Mr. Carrow: Yes, sir.

The Court: And you did not know it.

Mr. Carrow: Yes, sir. I was confused. It is the first statement to Mr. Wolverton, but the second statement of the defendant.

Cross-examination.

By the Prosecutor:

Q. At this time, at the time of the conversation yeu referred to, did you talk to Mr. James and tell him where Schuck said it had happened in Camden County?

A. How is that?

Q. At the time you talked to Mr. James and had this conversation with him which you refer to in answer to Mr. Carrow's question, when you say you told him what Schuck said with two or three exceptions, did you tell him—what were the exceptions?

A. The exceptions that I didn't tell him?

Q. Yes.

A. I didn't tell him that Raymond said he had a gun on him.

Q. What else?

A. I couldn't recall unless I went over the——

Q. Did you tell him that Raymond Schuck said the blows had been struck in Camden County?

A. I did.

Q. And did you ask him whether that was so?

A. I did.

Q. And did you speak to him along that line, that if it were in Camden County it would be a matter for a Camden County indictment, that if it were in Burlington County it would be a matter for a Burlington County indictment?

A. I did.

Q. And then told him what Schuck said?

A. He wanted to know what he said about it.

Q. Is that right?

A. Yes.

Q. Now, Mr. Parker, did I understand you to mean that you then did have conversation with Mr. James?

A. I had a conversation, Mr. Carrow, but it wasn't like what was quoted.

Q. Did you ever tell Mr. James that Raymond Schuck said he had a gun on him?

A. Did I ever tell Mr. James that Raymond Schuck—— The only thing that was mentioned concerning a gun in that statement was the time that Mr. James shot Mr. Paul, that is the only gun that was mentioned.

Q. That is, in the first statement?

A. Yes.

Q. Yes, but you misunderstood my question, Mr. Parker, Mr. Wolverton said, asked you, I think, "What were the exceptions?" What did you leave out of Mr. Schuck's story to Mr. James?

A. Well, when I told Mr. James what Mr. Schuck had said, I just went over and gave him a line of what Mr. Schuck had said with the exceptions of saying that Mr. James had pulled a revolver on Mr. Schuck and told him to do it.

Q. Yes, now after the statement was made, did you tell Mr. James that Mr. Schuck had pulled this gun, had said that he had pulled a gun on him?

A. Not until after Mr. Wolverton had told him when he was talking to him about it.

Q. Were you present when the statement was made to Mr. Wolverton and Mr. Berry?

A. No, I was not present.

Q. Do you know whether or not that fact was conveyed to Mr. James' mind before he made that second statement or not?

A. I don't know; the only thing I know is what Mr. James told me afterward, that Mr. Wolverton said that Mr. Schuck said he had pulled a gun on him, and then he asked me if Mr. Schuck said that to me.

Q. What did you say to him?

A. I said yes.

Mr. Carrow: Now, if your Honor please, I would like to call for the statement made by Mr. James to Mr. Wolverton at the Mt. Holly jail taken by Mr. Berry.

The Prosecutor: May I ask for what purpose counsel calls for it?

Mr. Carrow: For the purpose of contradicting the witness, Mr. James.

The Prosecutor: I can't see that any contradiction could be proved that that——

Mr. Carrow: Well, Mr. Wolverton, you have seen the confession; I have never seen it; I would like to have seen it.

The Court: Now, gentlemen, I think we can straighten this out very easily and very simply. Of course, Mr. Carrow, any statement that was made by Mr. James—and that is the paper that I believe that you want, isn't it?

Mr. Carrow: Yes, sir.

The Court: Of course, is not evidential, the document itself.

Mr. Carrow: No, of course not, no.

The Court: You would agree to that?

Mr. Carrow: Yes, sir, that is right.

The Court: Now then, of course, the person who would know most regarding that statement and could best refresh his recollection would be the one who took it down stenographically, Mr. Berry. Now, you have a perfect right to call Mr. Berry if you desire, and Mr. Berry can testify to anything from that statement for which you have laid a foundation in your cross-examination of Mr. James, which, from the statement of Mr. James would be contradictory of what Mr. James has said in his examination in this case.

Mr. Carrow: Yes, sir.

The Court: Now, of course, if you want to introduce that statement in evidence, if that is your purpose in calling for it, why, of course it need not be produced, because I won't admit it in evidence.

Mr. Carrow: I have no idea of calling for that statement to be read in its entirety, if the Court please; I simply want to know whether or not Mr. James in that statement——

The Court: In other words, you want to discedit Mr. James?

Mr. Carrow: That is my point.

The Court: Yes; well now then, of course, to discredit a witness you must lay a foundation for it.

Mr. Carrow: I think I asked Mr. James, if the Court please, whether or not he said that to Mr. Wolverton at that time, and he said, "I did not." In the first instance he said he did, he admitted it.

The Court: Well, you refer to that testimony and then I will pass on whether you have laid a proper foundation for the introduction of the testimony.

Mr. Carrow: At the bottom of page 404, if the Court please, you will find this question: "In your first statement, in the statement you made to Mr. Parker, did you say that there was no conspiracy between you and this defendant to rob Mr. Paul? A. I did." Now, that is what disposed of the first confession, if your Honor will remember. "Did you say that in your statement to Mr. Wolverton?" meaning that there was no conspiracy to rob Mr. Paul. "A. No, sir."

The Prosecutor: Now, that statement is the one we have introduced in evidence.

The Court: Oh, no, you have not introduced that statement.

The Prosecutor: I think that is the one, yes.

The Court: No, he is referring to a statement of Mr. James, Mr. Wolverton.

The Prosecutor: That is true; you go back further and look and see.

Mr. Carrow: Where, what page?

The Prosecutor: Back here at 404. When I spoke of the introduction of that I meant that was the one he had referred to to Mr. James in his examination previously; that was the impression I had.

Mr. Carrow: No, sir.

The Prosecutor: "During the course of your trial, Mr. James——

The Court: Now, where are you reading from?

The Prosecutor: Page 401, "Q. During the course of your trial, Mr. James, there was introduced in evidence a confession purported to have been made by you, statements made by you to Prosecutor Wolverton? A. Yes, sir. Q. And one of those question was as follows;" and then a question and answer, so that was how it got into my mind that it was introduced in evidence by reference to his testimony in the previous case, and that was the statement that was referred to, the one that had been introduced in evidence in the previous case.

The Court: Yes, but of course, it is not in this case.

The Prosecutor: No, except in that indirect way.

The Court: In that indirect way; now, what Mr. Carrow wants to show is this, he wants to contradict Mr. James by showing that in the statement made to you that he made a different answer in that statement to the answer which he made in his cross-examination to Mr. Carrow. "Q. Did you say that in your statement to Mr. Wolverton? A. No, sir."

The Prosecutor: If he did contradict him, why, it would—— The point was this, "Q. In your first statement, in the statement you made to Mr. Parker, did you say that there was no conspiracy between you and this defendant to rob Mr. Paul? A. I did." —In other words, I did not say anything about the conspiracy.

The Court: Yes, certainly.

The Prosecutor: "Q. Did you say that in your statement to Mr. Wolverton? A. No, sir." In other words, that he did speak of it.

The Court: In other words, that he did say in his statement to you that there was a conspiracy?

The Prosecutor: Yes, sir, and that statement was the one which was referred to in the previous part of our examination, which was the one which had been introduced in the previous case.

The Court: Well now, then what Mr. Carrow wants to prove is that in that statement made to you that Mr. James said there was no conspiracy to rob Mr. Paul—isn't that what you want to prove?

Mr. Carrow: Yes, sir; I have never seen the statement.

The Prosecutor: Why, it is in the record in the other case.

The Court: Yes, it is entirely in the record.

The Prosecutor: And counsel has had a copy.

The Court: And I will say, if you will examine it, Mr. Carrow, I think you will not press this question.

Mr. Carrow: If your Honor please, it is my understanding today that the statement which was made by Mr. James which was read at the first trial was not the statement that was taken at that time; it was his fourth statement.

The Court: Well then, Mr. Carrow, of course, that is a matter that you haven't laid a proper foundation for. I am willing to permit you to prove by Mr. Berry, or by anyone who was present, if you can do so, that Mr. James said in his statement to Mr. Wolverton——

Mr. Carrow: At Mount Holly, if the Court please.

The Court: Well, no, I won't do that, because you haven't laid——

Mr. Carrow: My specific question——

The Court: You have not laid a foundation; in other words, you have to lay a foundation, and that is just exactly the purpose of a foundation, so that there cannot be any question at all as to what the statement made by the witness refers to.

Mr. Carrow: "Q. Did you make that statement to Prosecutor Wolverton in the Mount Holly jail? A. Yes, sir. Q. Which was taken down stenographically? A. Yes, sir. Q. By whom? A. Mr. Berry. Q. In that statement did you say anything to the effect that this defendant struck Mr. Paul any blows?

A. I did. Q. In your first statement——'' Now, see, those answers are confined to the statement made to Mr. Wolverton in the Mount Holly jail about the striking of the blows on the part of this defendant.

The Court: The question was about the making of the statement to Prosecutor Wolverton at the Mount Holly jail, and he said, ''I did.'' That statement was introduced into evidence in the other case, and that was the basis of your examination at this time of Mr. James; you have a copy of it, because the Court ordered that you have a copy of all the proceedings of the James case.

Mr. Carrow: Yes, but my impression is Mr. Wolverton—of course, I am not as familiar as you are with all these statements, but my impression is the confession which was used at the James trial was his last confession, and I want the first one made to you. Now, you can relieve me and relieve the Court, if you will—if you will just state whether the statement, the confession that was read at Mr. James' trial was the statement taken by you at the Mount Holly jail, the first statement Mr. James ever made to you.

The Prosecutor: Oh, no, no; he made lots of statements.

The Court: Now, I will tell you what we will do, gentlemen. I want to make myself perfectly clear. If you can show, Mr. Carrow, in the statement to which I think this evidence relates that Mr. James said that there was no conspiracy to rob Mr. Paul—

Mr. Carrow: And that the defendant did not strike any blows—I asked him both questions.

The Court: Well, I will stick to this one first, because you will come across the other when you examine this—we will only get one thing at a time—now, if you can show that I will permit you to show it, and you may have an opportunity. It is now time for the Court to take the noon recess, and I will give you during the noon recess to work on it, and, of course, you have the statement of Mr. James, because that is one of the purposes for which I ordered a copy of the testimony in the other case given to you.

Mr. Carrow: Well, if your Honor please, you will remember that Mr. Wolverton would not answer that question that I asked him a few moments ago directly. This statement that is in the James case is not the statement I want.

The Court: Well then, of course, Mr. Carrow, you are in this situation, that you have laid no foundation for it.

Mr. Carrow: Yes, if your Honor please, I think if Mr. Wolverton would say to the Court and myself, that the statement of Mr. James used in the James trial was the statement made by Mr. James to him at the Mount Holly jail for the first time, I will be perfectly satisfied to take the statement that did appear in the James trial; but I don't think it is.

The Court: Well, that is your misfortune, because that is just exactly why these rules of evidence are invoked.

Mr. Carrow: Well, if your Honor please, that was exactly the reason I was so particular in asking

the witness about the statement made to Mr. Wolverton in the Mount Holly jail.

The Court: Well, that is the one in the other case.

Mr. Carrow: Well, that is all I want to be sure of, is that.

The Prosecutor: No, we took several of James, if that is the one you mean, but the one your examination refers to on which you laid your foundation, if you laid any foundation at all, which I don't think you did, was this one in his case.

Mr. Carrow: Then I understand from you that this statement, the confession that was used against Mr. James—there was only one introduced and used in the James trial—was the statement made to you by Mr. James at the Mount Holly jail for the first time?

The Prosecutor: I am not certain, but that is the one——

The Court: That is the only one you can use, Mr. Carrow, because it is the one the witness referred to, unquestionably, the one you referred to in your question, otherwise you haven't laid a proper foundation for it.

Mr. Carrow: I don't know how more particularly I could describe the statement that I wanted the witness to testify to than I did. I asked him if it was the first statement at the Mount Holly jail made by him to Mr. Wolverton.

The Court: Well, you have it in the record, the one that was used, so you look it up during the noon recess.

(At this point an adjournment was had until 1.30 o'clock P. M.)

(Trial of the cause resumed at 1.30 o'clock P. M., pursuant to adjournment, in the presence of the defendant and counsel for the respective parties.)

Mr. Carrow: If your Honor please, since the noon recess I have had an opportunity to examine that statement of Mr. James, testified to in the James trial, and it is the same statement which appears in evidence in that trial, and it is the same statement that I had in mind. I thought it was a different one. So I will withdraw that offer.

RAYMOND W. SCHUCK, recalled.

The Prosecutor: May I ask the purpose of recalling the witness to the stand?

Mr. Carrow: I wish to ask him a question or two I overlooked in my direct examination.

By Mr. Carrow:

Q. Mr. Schuck, you testified, I think, that——

The Prosecutor: If the Court please, was it a matter in direct examination or cross-examination that counsel overlooked?

Mr. Carrow: Matter in direct examination.

The Court: It is on some phase of the case that you did not touch on in your direct examination and has not been touched on in the cross-examination?

Mr. Carrow: Yes, sir; it has not been touched on by this witness at all.

The Court: Very well.

Q. You remember making a statement to Mr. Wolverton in the presence of Mr. Berry on November 10th?

A. Yes, sir.

Q. Where was that statement made?

A. I think it was made in the sheriff's office at the Mt. Holly jail.

Q. No. Oh, in the sheriff's office in the Mt. Holly jail?

A. I believe it was there. There in one of the rooms.

Q. Have you any idea how long you were in making that statement?

A. I couldn't give the exact time. I guess it took quite a little while.

Q. At the conclusion of that statement did anyone come into the room in which you and Mr. Berry were?

A. Yes, Mr. Kelsey came in.

Q. Anyone come in with Mr. Kelsey?

A. I don't think so.

Q. Did Mr. Kelsey say to you, "Raymond, how did you and James come to conceive of such a diabolical crime?"

A. I don't remember at the present time him saying that, but he may have said it.

Q. Do you remember what your answer to him was?

A. I told him something about that James and I were both bad, but at the time I said it I didn't mean that we were both——

The Prosecutor: I object.

The Court: No; it is not what you meant, it is what you said, Mr Schuck.

The Prosecutor. And I think that possibly the better way would be for Mr. Carrow to put to him the exact words that Prosecutor Kelsey testified to and ask whether he said those words or not.

Q. Did you in reply to that question by Mr. Kelsey say: "I don't know, Mr. Kelsey; it appears to be a nightmare or a bad dream." Did you say that?

A. I may have said it.

Q. What did you mean by that?

The Prosecutor: I object.

The Court: No, the witness cannot testify as to what he meant. It is what he said. We must draw the conclusions as to what was meant.

Q. What was in your mind at the time?

The Prosecutor: I object.

The Court: No, Mr. Carrow, I overrule that.

Q. Do you remember saying to Mr. Kelsey: "I don't know, Mr. Kelsey; I guess it is fifty-fifty with us; we are a couple of bad eggs."
A. I don't remember saying that.
Q. Did you say it or didn't you say it?
A. I don't remember saying it.
Q. If you did say it, did you mean it in relation to the question that Mr. Kelsey asked you?

The Prosecutor: I object.

A. No, sir.

The Court: The answer will be stricken out and the question overruled, Mr. Carrow.

The Prosecutor: Mr. Schuck, when you know I want to object, will you be so kind as not to answer until I have an opportunity?

The Witness: Yes, sir.

The Court: Do not answer until I have ruled, Mr. Schuck.

Cross-examination.

By the Prosecutor:

Q. You say you may have said it?
A. Yes, sir.
Q. You won't say that you did not, will you?
A. I am not positive.
Q. Would you say that you didn't say it?

A. I don't remember saying it.
Q. May you have said it?
A. I may have said it.
Q. Is it possible that you said it?
A. I have my doubts whether I said that or not.
Q. Will you say that you did or didn't?
A. No, I am not positive about it.
Q. But you do remember saying, "We are a couple of bad ones," do you?
A. Yes, but I didn't mean that in connection with the Paul case.
Q. That is all. You did say that, did you? You did say that?
A. Yes.
Q. And you remember saying it?
A. If I said it I didn't mean it in connection with the Paul case.
Q. And you remember saying that?
A. If I said it.
Q. And you won't say that you didn't say the rest that Mr. Kelsey testified to, will you?
A. I am not positive.

DR. JOHN G. EBY, sworn.

By Mr. Carrow:

Q. What is your name, sir?
A. John G. Eby.
Q. What is your business?
A. Druggist.
Q. Are you a graduate druggist?
A. Yes, sir.
Q. Where is your place of business?

A. 1520 Mt. Ephraim Avenue.
Q. Did you see the defendant on October 7th last?
A. I am not sure of the date.
Q. Did you see him during the month of October?
A. Yes, sir.
Q. Where?
A. Passing the store.
Q. Was anyone else there at the time?
A. Yes, sir.
Q. Who?
A. Miss Gardiner.
Q. Did you say anything to this defendant on that occasion?
A. Yes, sir.
Q. What did you say?
A. I don't recall the exact words. It was something like, "You are still a sport," or "millionaire," or something to that—some statement of that sort.
Q. Did you say, "Look at the sport"?
A. I am not positive.
Q. Did he say anything in reply to you?
A. He was walking down the street, continued walking, and I didn't hear what was said.
Q. Were you and Miss Gardiner standing together?
A. No, sir.
Q. Far apart?
A. I was in the doorway and she was out on the pavement.
Q. How far away was the defendant?
A. I should say about five or six steps; something like that, going down the street, continuing walking.
Q. Did you hear him say, "If you had my sock"—

The Prosecutor: He said he did not hear him say anything.

Q. Did you hear anything said at all?

A. Yes, sir.

Q. What did you hear?

A. I only heard one or two words, and it sounded like an expression like, "Oh, yes," or something like that. One or two words is all, and that is what it sounded like, but I am not sure of that. It was some statement to that effect.

Q. Did you hear him say, "If you had my sock you wouldn't work either"?

A. No, sir.

Cross-examination.

By the Prosecutor:

Q. Will you say that he did not say it?

A. I did not hear it.

Q. He was walking away from you at the time you asked the question?

A. Yes, sir; walking away from me.

Q. And Miss Gardiner was also walking away from you, was she not?

A. From me?

Q. Yes.

A. As I remember, she was standing on the pavement and not walking at the time.

Q. She was nearer to Schuck than you?

A. Oh, yes.

Q. If Miss Gardiner said she heard it, would you say it was not said?

A. I did not hear it.

Q. But if she heard it would you say it wasn't said?

A. I couldn't say it wasn't said. I simply didn't hear it.

JAMES DOUGHERTY, sworn.

By Mr. Carrow:

Q. Mr. Dougherty, have you ever been convicted of crime?

A. Once.

Q. During the month of last November, where were you?

A. Camden County jail.

Q. Do you know Frank J. James?

A. Yes, sir.

Q. Did you come in contact with him there?

A. I did.

Q. Did you have any conversation with him about the Paul murder?

A. I did.

Q. Did he ever tell you in the course of conversation that there was no conspiracy or plan or plot between Raymond Schuck and himself to rob Mr. Paul?

The Prosecutor: If the Court please, I ask that the same question be put to this witness as was put to the defendant, James, when he was on the stand.

The Court: Yes. You will find the question on page 406, Mr. Carrow, and you will just ask that question, if you please.

Q. Did Mr. James tell you that there was no conspiracy between himself and Schuck to rob Mr. Paul?

A. He told me there wasn't any.

Q. Did he tell you that Mr. Schuck did not strike any blows?

A. He did.

Cross-examination.

By the Prosecutor:

Q. When did you get out of jail, Dougherty?
A. A week ago today.
Q. Where have you been since you got out?
A. Rooming down here on 227 Front Street.
Q. Where have you been working?
A. Been working nowhere. Been here to the trial every day.
Q. Where have you been getting money to live on, then?
A. Always had it.
Q. How much did you have when you left the jail?
A. I couldn't say how much I had when I left.
Q. How much do you think you had?
A. Oh, well, I had about twenty-two or twenty-three dollars.
Q. Haven't worked since you got out?
A. No, sir.
Q. Where have you been living?
A. Two twenty-three or 227 Front Street.
Q. With anyone?
A. Rooming down there.
Q. Haven't done any work since you have been out?
A. No, sir.
Q. Did you state to a man by the name of Davis in the jail upstairs—— You know him, don't you?
A. I do.
Q. Did you say to him that there was a lot of money in this case for you?
A. No, sir. He didn't know I was coming on the case at all.

Q. While you were confined in the jail did you not say to him, "I know there is a lot of money in this for me"?

A. No, sir.

Q. Or, "I can get money out of this"?

A. I did not.

Q. Did you make any reference to money at all to him?

A. No, sir.

Q. When did you first find out you were to be a witness in this case?

A. I believe on Sunday night.

Q. Which Sunday night?

A. The night before I got out of jail.

Q. How did you know it then?

A. Talking to Mr. Carrow.

Q. Had you talked to Schuck about it?

A. No, sir.

Q. Hadn't you told Mr. Schuck about it?

A. I did not.

Q. And didn't tell anybody about it from November until you were let out of jail a week ago?

A. I didn't tell nobody nothing.

Q. Never mentioned it to Schuck?

A. No, sir.

Q. Never talked to Schuck about his case?

A. Never talked to him in regard to being a witness for him and never talked to him about his case, because he wouldn't talk to me about it.

Q. You didn't think it important enough to go tell him what you say James told you?

A. Not tell it to him, no.

Q. And you didn't tell it to anybody?

A. To Mr. Carrow.

Q. Until the night before you were ready to go out of jail?

A. That is all.

Q. How did you come to tell him then?

A. Because I told him because I had a talk with him.

Q. You have been convicted of larceny?

A. I was.

Q. And you were serving time up there for that?

A. I did.

Q. Where is your home?

A. California.

Q. California?

A. Yes, sir.

Q. Isn't it in Ohio?

A. Not my home, no.

Q. How old are you?

A. Forty-one.

Q. Didn't you in previous cases that you have testified in this court say your home was in Ohio?

A. Not my home, no. I said I lived over in Ohio.

Q. How long did you live there?

A. Oh, I have been there off and on. I don't stay any one place very long.

Q. You just go about the country as the inclination reaches you; is that right?

A. Just when I take a notion to go.

Q. That is all. Don't go away. Come back here and sit down, but don't go away.

JOHN J. TERNESON, sworn.

By Mr. Carrow:

Q. Mr. Terneson, where do you live?

A. Moorestown is my home, but I have been at 310 Arch Street now.

Q. During the month of November last, were you confined in the county jail?

A. Yes, sir, Thanksgiving Day.

Q. You have been convicted of a crime?

A. I don't know whether it was a crime or misdemeanor, a misdemeanor, I guess.

Q. Do you know Frank J. James?

A. Yes, sir, I know him.

Q. Did you ever have any conversation with him?

A. I certainly did.

Q. In reference to the Paul case?

A. Yes.

Q. Did he ever tell you that there was no conspiracy between Schuck and himself to rob Mr. Paul?

The Court: You had better get the exact language.

Mr. Carrow: That is the exact language.

The Prosecutor: The only question was, "Did you ever tell him there was no conspiracy"?

Q. Did he ever tell you that there was no conspiracy?

A. He didn't tell me that, no, sir.

Q. Did you ever hear him say that?

The Prosecutor: I object.

The Court: No, that is all you can ask him, Mr. Carrow, the objection is well founded.

Q. What did he say to you?

(Objected to.)

The Court: No, that question is overruled.

The Prosecutor: The only reason that this witness can be called is to contradict, as I understand, the questions put to Mr. James.

The Court: I have sustained your objection, Mr. Wolverton.

Mr. Carrow: Well, if the Court please, this witness might not understand the meaning of that particular word.

The Prosecutor: Don't you worry about that.

The Court: It does not really make any difference whether he understood the meaning or not, Mr. Carrow; it is a question of whether or not James said it to him.

Mr. Carrow: All right, that is all.

Cross-examination.

By the Prosecutor:

Q. What is your name?
A. My name is John J. Terneson.
Q. How old are you?
A. Fifty-three, I believe.
Q. What is it?
A. Fifty-three years old.
Q. Have you ever been convicted of crime?
A. I certainly have, yes, sir.
Q. Did you ever go under any other name?
A. No, sir.

Q. Did you ever go under the name of John Eldridge?

A. No, sir, that is not my name.

Q. Weren't you on May 21, 1891, under the name of John Eldridge, sentenced to the Eastern Penitentiary from Bucks County to serve the term of eighteen years for the crime of felonious entry, larceny and receiving?

A. Not under the name of John Eldridge; no, sir.

Q. Under what name did you——

A. My right name is Terneson.

Q. Did you give the name of John Eldridge?

A. No, sir; I did not.

Q. Are you the person I just referred to?

A. Most likely; yes, sir.

Q. You are? Under the name of John Terneson, alias John Eldridge?

A. No Eldridge about it; my right name is Terneson, the only name I have got.

Q. Were you again in the Eastern Penitentiary, having been sentenced February 5, 1902, from Philadelphia County to serve the term of five years for burglary?

A. I don't know; I don't remember that.

Q. Well, how many times have you been in the Eastern Penitentiary?

A. Twice, I think.

Q. Well, when was the other time if it wasn't when I have just said?

A. I don't remember that.

Q. What?

A. I don't remember that.

Q. How many times have you been convicted of crime?

A. Twice, I think.

Q. Are they the only two?

A. Yes.

Q. Then why did you say that you did not know whether you were or not?

A. My right name is Terneson; I have no other name, I have told you that.

Q. But you have served two terms in the Eastern Penitentiary; is that right?

A. Yes, sir.

Q. Have you not been convicted again, from Bucks County, and served two years for felonious entry, larceny and receiving stolen goods? And sentenced on that charge on September 19th, 1906?

A. Not me, no.

Q. That was not you?

A. No, sir.

Q. Where were you then in 1906, September 19th, 1906?

A. I just can't remember where I was; I have no book to keep account of it.

Q. Were you not at that time—the commutation of your sentence, had it not expired on April 19th, 1908, and you were compelled to serve eighteen months commutation which had been granted to you on the former sentence?

A. I remember something about that, yes.

Q. Well now, how could you be compelled to serve time on a former commutation if you were not there the third time?

A. What has this got to do with what you have got me here for? What do you want to put that all against me? You oughtn't to put that all against me.

The Court: Don't make such a reply as that. That will be stricken from the record.

Q. Have you been convicted in Burlington?

A. I told you before I have been in jail, yes; what more do you want?

The Court: Just be civil, sir. That answer, the latter part of it, will be stricken out.

The Witness: Yes, sir; no use in showing a man up like that entirely.

Q. Have you served any time in Burlington County?

A. Burlington County?

Q. New Jersey.

A. Up here, yes; here 50 days.

Q. No, I mean up at Mt. Holly.

A. No, sir.

Q. Does this cover all of it?

A. Sir?

Q. Is this all of it, that you have been in trouble?

A. Oh, I have been in trouble, but I haven't been in trouble for the last seven or eight years. I have been behaving myself well, for this last seven or eight years, never got in no trouble until I got in trouble here, and that is through drink.

Q. When were you released from the county jail?

A. The 14th of this month, I believe.

Q. The 14th of February?

A. Yes, sir.

Q. Where have you been living since then?

A. I have been living 310 Arch Street.

Q. A rooming house?

A. Yes.

Q. Have you been working since that time?

A. I couldn't find no work, sir.

Q. How have you been sustaining yourself?

A. By money of my own.
Q. How much did you have when you got out?
A. I had a few hundred dollars.
Q. A few hundred?
A. Yes. Well, I had about $600, $575 I guess.

The Court: Mr. Wolverton, I really think that this is not very material. I do not want to interrupt you, but you see under some circumstances it would be, but of course he denies the very question that was put to him.

The Prosecutor: Yes, sir; I won't press it.

MRS. FRANCES V. SCHUCK, sworn.

By Mr. Carrow:

Q. Mrs. Schuck, was your husband home sick during the week of the 16th of October?
A. He was.
Q. How many days was he home?
A. As far I can remember, three or four; I think he was home, he came home Tuesday afternoon.
Q. Was he confined to his bed?
A. He was.

No cross-examination.

Mr. Carrow: If your Honor please, that is the defendant's case.

The Court: Have you anything further in rebuttal?

The Prosecutor: I think there will be; if the Court will grant me about five or ten minutes, I didn't anticipate it coming to a close so suddenly.

(At this point a recess was taken for five minutes.)

The Prosecutor: The State rests.

TESTIMONY CLOSED.

The Court: Now then, Mr. Wolverton, you desire on the part of the State to have an opening address made for the State?

The Prosecutor: If the Court please, we have agreed that the opening of the case to the jury shall be made by Mr. Straw, the Assistant Prosecutor, followed by the attorney for the defendant, and the Prosecutor to close.

The Court: Very well. The State, then, through Mr. Straw, will make the opening address to the jury.

Just wait a moment. Mr. Carrow, I admitted the testimony of Mr. Ward with reference to the loan of an automobile to Mr. James on October 13th. You will recall that that was done upon the promise of the Prosecutor to connect the loan of the automobile with the defendant, and yet I told you I would reserve any motion that you might want to make, that the testimony offered at that time could not hurt you, and I was accepting it out of the order on the promise of the Prosecutor to connect it. I presume you do not want to make any motion to strike out that testimony, do you, at this time?

Mr. Carrow: No, sir.

The Court: Very well. I just wanted to bring it to your attention, because I promised to do so. Then the testimony will stand.

CHARGE OF THE COURT.

KATZENBACH, *J.*

In the indictment in this case the State charges Frank J. James and Raymond W. Schuck with the murder of David S. Paul, in Camden County on October 5th, 1920. For reasons which the Court deemed sufficient under the law it entered an order that separate trials be accorded to each of the defendants. This is the trial by the State under this indictment of the defendant, Raymond W. Schuck. The only question you have to consider is whether the defendant, Raymond W. Schuck, is guilty of the murder of David S. Paul. Your verdict must relate alone to Raymond W. Schuck.

Raymond W. Schuck stands charged with the murder of David S. Paul. It now becomes your duty to render a verdict upon the question of his innocence or guilt. In arriving at your verdict you must be governed by the principles of law bearing upon the case that I will now give you. In the determination of all questions of fact the sole responsibility is with you. You are the sole judges of the evidence, of the weight of the evidence, and of the credibility of the witnesses. Any comments I may make upon the evidence will not be made for the purpose of controlling you in your view, but only to aid you in

applying the principles of law to the facts as you may find them. You must not rely upon my quotations from the evidence as being accurate, but you must rely upon your own recollection. You must not consider only the evidence to which I shall refer but you must consider all of the evidence in the case.

The defendant comes into court with the presumption of innocence. He is presumed to be innocent of the charge until he is proved to be guilty. To convict the defendant the State must prove facts sufficient for that purpose by evidence which satisfies you of the guilt of the defendant beyond a reasonable doubt. If there be in your minds a reasonable doubt whether the defendant is guilty or innocent, you must acquit the defendant. Reasonable doubt is not a mere possible doubt, because everything relating to human affairs and depending on moral evidence is open to some possible or imaginary 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 that they feel an abiding conviction to a moral certainty of the truth of the charge. The evidence must establish the truth of the fact to moral certainty, a certainty that convinces and directs the understanding and satisfies the reason and judgment of those who are bound to act conscientiously upon it.

If, after carefully reviewing the evidence, giving the defendant the benefit of reasonable doubt, you are led to the conclusion that the defendant is guilty, you should by your verdict declare the defendant guilty.

Under this indictment it will be lawful for you to render a verdict that the defendant is not guilty, or that the defendant is guilty of murder I shall

hereafter mention, or in the second degree under one phase of the case I shall hereafter mention.

To support the indictment, the evidence on the part of the State tends to show that on the 16th day of October last, David S. Paul was found by gunners dead and buried in a shallow trench in the vicinity of Irick's Causeway in Burlington County. That on Tuesday, October 5th last, Paul was in his usual state of health, that on this day he disappeared and was not seen by his family or associates thereafter alive; that when the body of Paul was discovered on October 16th, it was identified by his son; that the body of Paul showed, beside minor wounds and punctures, a large wound about five inches in length on the skull above the ear, which the physician called as a witness for the State testified was a compound wound which fractured the skull and ruptured the covering of the brain and had caused the death of Paul. This testimony is uncontradicted and unimpeached. You will, therefore, be justified in finding that a criminal homicide was committed. The body of Paul was found in Burlington County. The testimony tends to prove that the blow or blows which Paul received and which caused his death were struck in Camden County. There is no evidence that any of the blows were struck in Burlington County. The law is that whenever any person shall be feloniously stricken in one county and shall die of the same stroke in another county, an indictment found either in the county where such person shall be feloniously stricken, or in the county where the death shall happen, or shall have happened, shall be as good and effective in the law as if the stroke had been given, committed or done and the death had happened all in one and the same county where such indictment shall be tried. If, therefore, David S.

Paul did die in Burlington County it makes no difference as the blows were struck in Camden County. There is also evidence which would justify you in finding that the death of Paul occurred in Camden County.

Doctor Stem testified as you will recall to the effect that on October 16th, when he examined Paul's body he was of the opinion that Paul had been killed three or four days prior to October 16th. From this evidence there may be an inference that Paul was not dead when placed on October 5th, in the marsh near Irick's Causeway and continued to live for some days before dying. There was also evidence as you will recall that the body was placed in cedar water which acts as a preservative which would account for the opinion of Dr. Stem as to the date of Paul's death. I merely mention these matters so that there may be no doubt in your minds that the defendant's indictment in Camden is proper.

The State charges that James and Schuck are the perpetrators of the crime. I have already stated that Schuck alone is now on trial and you are concerned with his guilt or innocence alone.

Paul was employed by the Broadway Trust Co. of Camden, as a messenger, and as a part of his work, he was accustomed almost daily to carry checks to banks and to deliver checks and bank notes in large amounts from the Broadway Trust Company to the Girard National Bank in Philadelphia. The State alleges that James knew Paul; that James and Schuck were friends; that James and Schuck conspired together to entice Paul into the automobile of James, as Paul was, on October 5th last, on his way to Philadelphia to deliver checks and bank notes, and to rob Paul of the money which they believed he had in his possession; that they did

take Paul in the automobile and while in the execution of their criminal purpose Paul was struck by James and Schuck, the blow or blows upon the head which caused his death.

The statute of the State of New Jersey provides that if the death of anyone shall ensue from the committing or attempting to commit a robbery, the person or persons so killing shall be adjudged guilty of murder, and that all murder which shall be committed in perpetrating or attempting to perpetrate any robbery shall be murder in the first degree.

Robbery is stealing property with violence from the person or personal custody of another. It is necessary in order to constitute that crime that the goods shall be on the person of the possessor or shall be in his presence or in his custody. To support the charge that James and Schuck conspired to invite Paul into James' automobile for the purpose of robbing him, and that while James and Schuck were together in the execution of that purpose one of them struck a blow or blows, or both struck blows, which killed Paul, the State has produced evidence to the following effect: That, as I have said, Paul was a messenger of the Broadway Trust Company and was accustomed daily to go to Philadelphia to carry checks and large sums of money in the form of bank notes to the Girard National Bank; that James knew Paul; that James and Schuck were friends and knew that Paul went to Philadelphia daily for the purpose mentioned; that James was the owner or in possession of a Ford automobile with a touring body; that on Tuesday, October 5th last, Paul left the Broadway Trust Company about 1.15 P. M. with checks to be delivered to the First National Bank of Camden and checks to the amount of approximately $30,000 and bank notes to the amount of

$40,000 to be delivered to the Girard National Bank of Philadelphia; that by prearrangement James and Schuck were together on this day at about 1.30 P. M. That James and Schuck in James' automobile met Paul on the street; that James invited Paul into the car and gave Paul the right-hand front seat; that James got into the rear seat; that the rear curtains were down, that is to say, in such position as to prevent persons from readily seeing occupants in the rear of the car; that Schuck was driving the car; that after Paul entered the car a stop was made at the First National Bank in Camden, where Paul got out and delivered the checks for that bank; that Schuck then drove the car down Market Street to Delaware Avenue and back of the long shed extending from Delaware Avenue to the ferry; that the car was stopped by Schuck, with the engine still running, and James then struck Paul on the head and pulled him from the front seat to the rear of the car; that Schuck assisted by pushing the leg of Paul; that James then hit Paul with an iron; that the car was turned around by Schuck and driven north on Delaware Avenue to Cooper Street, thence to Market to Federal, to Marlton Pike, to a road leading to Forest Hill Park; that Paul was conscious at the ferry; that James directed Schuck to drive to Cooper Hospital; that James again struck Paul with the iron or steel spring; that the car was not driven to the hospital; that near Forest Hill Park Paul was still conscious and asked that they take the money and let him go; that the car was stopped by Schuck and Paul according to the statement of Schuck; was beaten over the head by James and according to the evidence of James was struck twice by Schuck and succumbed; that Schuck drove the car through Forest Hill Park to the Marlton Pike

and into the country, passing Ellisburg and circling Marlton and Medford to Tabernacle and thence into the pine woods to a place known as Irick's Causeway where James and Schuck took the body of Paul from the car and laid it in a marsh in an unfrequented spot near the edge of or in a brook at a point about twenty or thirty feet from the road; that the covering or lining on the left-hand rear door of the automobile was stained with Paul's blood; that James tore off this lining and the lining and tape which held the lining in place were thrown in the underbrush a short distance from the place where Paul's body was placed; that Paul's eyeglasses and case were thrown away by Schuck in the brook (whether this was done on October 5th or October 14 there is conflicting evidence); that the money was taken from Paul's wallet and the wallet thrown away; that the other contents of the wallet were torn up and strewn along the road as the car proceeded on its return journey; that the instrument or piece of steel spring with which Paul had been beaten was thrown from the car, breaking the windshield; that James and Schuck then went to Clementon to a bungalow owned by Schuck to hide the money taken from Paul; that upon arriving there they decided not to hide it in the bungalow; that they decided to hide the money in Schuck's house in Camden; they stopped at North Woodbury where James telephoned, leaving Schuck at the time in the automobile with the money; that at Westville James again left the automobile and bought a shirt and collar; that they continued to Camden and went to Schuck's house; that they hid the money in the cellar of Schuck's house; that prior to the hiding of the money both James and Schuck placed considerable sums in their pockets; that James obtained

other clothes from a tailor; that the suit which James had worn and the rear curtains of the automobile were wrapped up with a brick and thrown into Cooper River; that on that evening James and Schuck went to Philadelphia; that they caroused with women and spent money freely; that they returned Wednesday evening to Camden; that James on his return from Philadelphia on Wednesday evening, took his car to Albertson's garage at Mt. Ephraim for repairs; that on October 7th, 8th and 9th, James and Schuck were in Philadelphia meeting frequently and spending money lavishly; that on October 13th, James obtained his car from the Mt. Ephraim garage; that Schuck was with him on that day and when blood was discovered on the rear seat and floorboards these were thrown away; that Schuck purchased a new rear seat for James' car; that on the following day, October 14th, James and Schuck went in James' car to the pines where Paul's body had been placed; that on the way they stopped at a store in Medford and bought two shovels and a rake; that an attempt was made to dig a grave near where the body had been placed; that roots prevented digging in this place; that a sandy spot some little distance away was decided upon and a hole was dug and Paul's body dragged to it with the automobile; that Paul's coat containing the checks which were to have been delivered to the Girard National Bank on the 5th of October and the list of the checks in Paul's handwriting was buried with him; that on the return trip James threw a shovel away and Schuck threw one away; that the rake had been previously thrown away; that after the body of Paul was found on October 16th, the lining of the rear left-hand door of James' car and tape were found near the place where Paul's body was found;

that the tape found fitted the place in James' car where new material had been placed; that Paul's glasses and case and wallet and some of the contents thereof, and the key to his locker at the Broadway Trust Company were found near the place where Paul was buried; that the old rear seat of James' automobile and floorboards of James' car which were thrown away were found; that one of the shovels and the rake were found; that some of the money taken from Paul, amounting to about $4,600 was found in the drawer of a wardrobe of the house of James' father; that over $30,000 of the money taken from Paul was found in the Evergreen Cemetery in Camden where it had been buried by Schuck; that the left-hand side door of James' car, the old lining of the same, the old tape for the same, the old seat and floorboards have blood spots on them.

Some of the evidence to which I have just referred comes from Schuck himself in the form of, first, admissions made by him to Ellis Parker, county detective of Burlington County on November 5th, 1920, and taken down stenographically by Miss Yoos and testified to by her; second, admissions made by Schuck to Mr. Parker in the presence of Mr. Carrow, Schuck's counsel, and Joseph B. Fleetwood on November 6th, 1920, and taken down by Miss Yoos, who has testified to the same; third, admissions made to Mr. Wolverton, Prosecutor of the Pleas of Camden County on November 10th, 1920, and taken down stenographically by Mr. Berry and testified to by Mr. Berry. Prior to these statements Schuck had denied he knew Paul or had been with James on October 5th, 6th, 7th, 8th, 9th, 13th and 14th; and in an interview with Mr. Wolverton and Mr. Straw on October 23rd, 1920, Schuck had explained his movements from October 5th, to October

23rd, so as to substantially exclude the meetings with James referred to in his statements of November 5th, 6th and 10th. I refer to the statements of Schuck as admissions rather than confessions because in no one of them does Schuck confess that he conspired with James to rob Paul; Schuck claims that the meeting with James and Paul was accidental and not by prearrangement; Schuck also denies that he struck Paul, which, as I shall explain hereafter, makes no difference as to Schuck's guilt if Schuck and James had conspired or planned to rob Paul and Paul was struck and killed by James in executing the crime of robbery. Schuck also in his statements and in his testimony maintains that in his acts he was dominated by James and controlled by James.

The statements of Schuck are admissions of many of the matters contended for by the State, namely, that Schuck and James were in James' car on October 5th; that Paul was killed and robbed; that his body was taken to Irick's Causeway; that the lining was torn from the rear left-hand door of the automobile and with the tape holding it in position were thrown away; that other articles were thrown away; that Schuck and James hid the money; that Schuck and James were together in Philadelphia on the night of the day Paul was killed; that they met on various other days; that certain things were done by them together to conceal the crime which had been committed; that they returned to the pines and buried the body of Paul. I am stating these matters by way of illustrating that many of these facts are proven by Schuck's admissions. The State has also proved by many other witnesses many of the facts I have referred to. The State has also offered evidence of all the matters essential to prove Schuck's

guilt of the charge made in the indictment by the testimony of James. James' testimony furnishes the direct evidence of the crucial question in the case, which is, whether Schuck and James conspired together to rob Paul. James' testimony on this subject, as you will recall, is to the effect that they had agreed some two weeks before October 5th, to attempt to rob Paul, and that on Monday, October 4th, they met Paul, but the conditions were not favorable for the accomplishment of their purpose; that on the preceding Friday, October 1st, they had also made an attempt, but found conditions unfavorable; that on Tuesday, October 5th, they met by prearrangement and consummated the robbery of Paul during which Paul was killed. In considering the question of the weight to be given to the testimony of James and his credibility, you should remember that James has been convicted of the murder of Paul, and is by his admission an accomplice of Schuck. The testimony of an accomplice is legal evidence. It is evidence, however, that you should scrutinize with care and accept with caution, if not corroborated. There is, however, no rule of law which requires corroboration. It is entirely within your province to determine whether or not to accept the evidence of James without corroboration. It is also your province to determine whether or not there is corroboration. You are to determine the credibility of James. It is for you to decide whether or not James is telling the truth. In considering the testimony of James, you should also take into consideration the fact that James' testimony does not shift the responsibility of Paul's murder from himself to Schuck. James' testimony is to the effect that he and Schuck had planned to meet Paul and to rob him, which makes James and Schuck equally

guilty, if you find there was a conspiracy, of which the outcome was the killing of Paul. In this connection you have also the right to consider the situation of Schuck and to take into consideration as an important circumstance his interest in the result in testifying as he does, that the meeting with Paul was accidental, and that he had no knowledge of James' intention to rob Paul, until the consummation of the act of robbery and murder by James. Schuck by his testimony seeks to place the entire responsibility for Paul's murder on James and in this way to free himself from the charge of murder for which he is being tried.

On the crucial question, whether or not James and Schuck conspired together to rob Paul, I will comment upon the evidence of Schuck and James on this point. Schuck says it was by accident he met James on October 5th, and that James directed the taking of Paul into the automobile, and he knew nothing of the purpose or plan of James to rob Paul. James, as I have stated, testified, as you will recall, concerning the agreement between Schuck and himself to rob Paul and the two unsuccessful attempts to do so made on October 1st and October 4th, prior to the successful attempt of October 5th. To determine whether James' testimony or Schuck's testimony is the truth, you have the right to consider the evidence concerning the surrounding circumstances. Schuck says that he merely left the place of his employment to procure his lunch and the meeting with James and the picking up of Paul, was, so far as he was concerned, purely accidental. In this connection you have the right to consider the testimony of Miss Bintliff, that Schuck, on October 5th, prior to going out, told her he was going to a world series game of baseball in Brooklyn, and Schuck's

testimony that he had no intention of going to Brooklyn. It is your province to determine whether or not this evidence discredits Schuck's testimony that he merely went out to obtain his lunch and corroborates James' testimony of the prearrangement to meet with Schuck and together to rob Paul. You should recall that this robbery was undertaken in broad daylight, in the middle of the day, and in a city. You have the right to consider whether it is probable that James would have attacked Paul as he did if there was no prior agreement with Schuck for Schuck's co-operation. Schuck was in control of the car and when the attack on Paul was made, could have gone to his assistance, or summoned aid for Paul by his voice or by driving the car to a place where help could have been obtained. Schuck gave no aid to Paul. Schuck summoned no assistance. It is for you to determine whether these circumstances corroborate or not the testimony of James of a conspiracy between Schuck and himself to rob Paul. You should also recall the evidence of Schuck that Paul was in a hurry to reach the ferry and that he, Schuck, drove the car in the rear of the shed and pulled in between two cars at a point over five hundred feet from the ferry. Was this because of the presence of the trolley car at Delaware Avenue and Market Street, as Schuck says, or because it was a good place to make the attack on Paul? This is for you to consider and determine. You should also recall the evidence of the actions of Schuck when the attack was made by James. James after delivering to Paul the first blow, commenced to pull Paul in the rear of the car where because of the presence of the side curtains there would probably be less chance for observers, if any, to see what was being done. James' testimony, you will recall,

was that Schuck assisted in getting Paul into the rear of the car. Schuck says that Paul's foot was caught in the seat, about six inches from him, and admits taking his foot and lifting it over to the rear of the automobile, but claims that this was done to save himself from being kicked by Paul. Was this an act by Schuck to assist in the robbery of Paul, or an act for his own protection, as he claims? This is for you to decide, as also its bearing in connection with the question of whether or not the conspiracy existed. You should also recall the evidence with reference to what was said about driving Paul to Cooper Hospital. Was this to deceive Paul, who was at the time conscious, and to arouse in him the belief that he was being taken to a hospital until he could be taken to a less frequented locality? Was the route taken by Schuck, which was not the most direct route, one which evidenced a participation in the robbery, or was that route taken, because, as Schuck says, James and Paul desired time in which to frame an explanation to account for the condition of Paul? You should also, in this connection, recall the steps taken to dispose of the body of Paul on October 5th, the things that were done to conceal the evidence of the crime, and the trip to the pines on October 14th, to hide by burial the body of Paul, in all of which, Schuck admits, he participated with James. You should also recall the evidence of what was done with the $40,000 taken from Paul, the concealment of the greater part of it in the house of Schuck, the burial by Schuck of over $30,000 of the money in the cemetery, and the bearing of all these facts upon the question of whether or not a conspiracy existed, and the guilt or innocence of the accused. You should also recall the testimony by Schuck that all he did on October 5th

was done at first because of fear of a revolver which James had and later that his participation in the various acts done to conceal the crime were due to the offer of an equal division of the $40,000. Schuck's testimony upon this phase of the case makes his alleged fear of James and James' financial inducement the reason for his participation in the various acts referred to. As Schuck denies that he had any knowledge of James' purpose to attack and rob Paul, and that he did not strike Paul, his testimony does not amount to the plea of duress, because duress admits the execution of the act and offers the compulsion as a justification. As this defense has been intimated, it may not be amiss to say that the compulsion which will excuse a criminal act must be present, imminent and impending and of such a nature as to induce a well founded apprehension of death or serious bodily harm, if the act is not done.

As I have commented at some length upon the testimony, and its bearing especially upon the subject of whether or not there was an agreement or conspiracy between Schuck and James to rob Paul, I should perhaps again at this point say that you must, in considering this question, as all other questions, remember that you are the sole judges of the evidence, of the weight of the evidence and of the credibility of the witnesses, and that the comments I have made are not for the purpose of controlling you in your views, but only to aid you in applying the principles of law to the facts as you may find them; that you must consider not only the evidence to which I refer, or have referred, but all of the evidence in the case, and that you must rely upon your own recollection and not upon my recollection as to what the evidence is.

If the evidence does not satisfy you so that you are convinced beyond a reasonable doubt of the existence of a conspiracy between James and Schuck to rob Paul, and that Paul was killed in the execution of that criminal purpose, you should acquit the defendant, unless you find the defendant guilty under another phase of the case, upon which I have been asked by the defendant's counsel to charge you, and to which I will shortly refer.

If, however, you find from the evidence, after applying the principles of law which I mentioned that James and Schuck agreed to invite Paul in James' automobile for the purpose of robbing him, and that on October 5th last, they did get Paul in the automobile for that purpose, and while James and Schuck were there together, if you find that Paul received from James or Schuck or both blows that caused his death, both are equally guilty of murder in the first degree, no matter who struck the blows; both are responsible for what either did while executing that criminal purpose. The law makes no distinction between them. If James delivered the fatal blow, Schuck is just as guilty and responsible for that blow in the eye of the law as though he, Schuck, delivered it. It makes no difference whether the one who delivered the blow intended to kill Paul or not. It makes no difference what his intention was in delivering the blow. If either killed Paul the other is just as guilty as though he delivered the fatal blow, whether he intended that the one who delivered the blow should deliver it or not. It makes no difference if they were in the pursuit of the purpose of robbing Paul in the way I have stated. The law says that death resulting from the conduct of either under such circumstances is murder in the first degree.

James in his testimony stated, as you will recall, that he and Schuck were on October 5th last, waiting for Paul, and that after Paul had entered the car and the attack was made by James that the car was driven to a point in the City of Camden on the outskirts of the city referred to as Forest Hill Park; that upon arriving at this point, Schuck, after stopping the car, took the spring with which Paul had been beaten by James and delivered two blows with the spring upon the head of Paul, and after that nothing more was heard from Paul. If you should find that no conspiracy between James and Schuck existed but that the blows delivered by Schuck were the cause of the death of Paul, then you could under this evidence, find the defendant guilty of murder, but under this evidence you would be obliged to determine whether it is murder of the first degree, or of the second degree, and declare by your verdict the degree of which you find the defendant guilty, if you find him to be guilty. If a human life is taken under circumstances which justify an inference that the act which occasioned the killing was perpetrated with intent to inflict a serious bodily injury, the probable consequences of which would be bloodshed, and no justifiable excuse for the act appears, the person proven to have perpetrated the act is guilty of murder in the second degree. If, however, the killing was perpetrated by means of poison, or lying in wait, or by any wilful, deliberate and premeditated act, then the offense would be murder of the first degree. Before you would be justified in finding the defendant guilty of murder in the first degree, the State must satisfy you beyond a reasonable doubt, that before slaying his victim the accused had formed in his mind a specific intent to take life, that is, he premeditated

it, and that he then, after considering whether he would carry out such premeditated intent finally determined to and did wilfully and intentionally execute it. No particular time need elapse between the formation of the design to take life and its wilful and deliberate execution. All that is required is that there be sufficient time to fully and clearly conceive the design to kill and then to consider and deliberate the question whether to kill or not, and thereafter to determine to execute the previously formed intent. If there was a sufficient time for the accused to consider and decide each of these requirements, it is enough. If the evidence does not convince you that the act which resulted in the killing was wilful and perpetrated with the premeditation and deliberation necessary to constitute murder of the first degree, but does satisfy you that the defendant intended to do a serious bodily injury to the deceased, the probable consequences of which would be bloodshed, but in carrying out his intention acted without deliberation and premeditation, then the grade would not rise above that of second degree. I charge you in this way because of the evidence given by Mr. James. The State has tried the case upon the theory of a conspiracy between James and Schuck to rob Paul and upon this theory, if you find Schuck guilty, your verdict should be murder in the first degree. And that was the argument also, upon that question was the argument for the defense. In connection with guilt of murder in the first degree the Court should charge you that there was a statute passed in 1916, and amended in 1919, chapter 134, page 303, which as amended, reads in part as follows:

> "Every person convicted of murder in the first degree * * * shall suffer death unless the jury shall by their verdict, and as a part thereof,

upon and after consideration of all the evidence, recommend imprisonment at hard labor for life, which case this, and no greater punishment shall be imposed * * *."

Before this act was on the statute book the duty of the jury was merely to determine from the evidence whether or not the defendant was guilty, and, if so, whether he was guilty of murder in the first degree, second degree, or manslaughter, or whatever the evidence warranted, and that statute provided that if a verdict of murder of first degree was rendered by the jury the Court had no option whatever but to impose the penalty of death in the electric chair. The statute now provides that the jury may render a verdict of murder in the first degree, and if they find a person guilty of murder in the first degree in that case the defendant shall suffer the death penalty, but if they shall recommend imprisonment at hard labor for life, then the Court must impose that sentence. The very important duty, is, therefore, placed upon the jury, of deciding after consideration of all the evidence, whether to render a verdict of murder in the first degree, carrying the death penalty or to render a verdict of murder in the first degree with a recommendation of imprisonment at hard labor for life.

The Court: Now, before concluding the charge I will take up at this point the requests of the defendant to charge. The defendant, through his counsel, has submitted requests to the Court. Now, Mr. Carrow, the first request—do you desire to have that charged?

Mr. Carrow: Yes, sir.

The Court: That is, "The fact that the defendant was indicted raises no presumption of his guilt." I so charge you. The second I think I have covered.

Mr. Carrow: Yes.

The Court: The third has been covered, hasn't it?

Mr. Carrow: Yes, sir.

The Court: Do you desire the fourth?

Mr. Carrow: Yes, sir.

The Court: The fourth request is: "The law does not supply by supposition or intendment any chasms or deficiencies in the testimony." The fifth has been substantially charged?

Mr. Carrow: Yes, sir.

The Court: That you do not wish. The sixth I will deny.

Mr. Carrow: May I have an exception, if your Honor please?

The Court: Yes.

(Exception noted for the defendant.)

(Signed and sealed accordingly.)

FRANK S. KATZENBACH, JR.,
J. (Seal)

JOHN B. KATES,
J. (Seal)

New Jersey State Library

The Court: The seventh I will deny.

Mr. Carrow: May I have an exception?

The Court: You may.

(Exception noted for the defendant.)

(Signed and sealed accordingly.)

FRANK S. KATZENBACH, JR.,
J. (Seal)

JOHN B. KATES,
J. (Seal)

The Court: Now, do you wish the eighth charged, in view of the charge?

Mr. Carrow: Yes, sir.

The Court: Well, I will charge it, although I think the charge covers it.

Mr. Carrow: I think so, if your Honor please, yes. I was looking at the other paragraph.

The Court: Then you do not wish that? Well, you do not wish the ninth charged, do you, because I have charged already on that subject?

Mr. Carrow: Yes, sir.

The Court: That is then withdrawn, the eighth and ninth?

Mr. Carrow: If your Honor please, I think I would request the ninth. The second paragraph of request No. 9 I don't think is touched on in your main charge.

The Court: That is, commencing, "There"?

Mr. Carrow: Yes, sir.

The Court: I will charge that: "There must be not only an intention to kill but there must be also a deliberate and premeditated design to kill. Such design must precede the killing by some appreciable space of time, but the time need not be long. It must be sufficient for some reflection and consideration upon the matter for the choice to kill or not to kill and for the formation of a definite purpose to kill, and when the time is sufficient for this, it matters not how brief the time is." Now, do you wish No. 10?

Mr. Carrow: Yes, sir.

The Court: No. 10: "If you believe from the evidence that there was no conspiracy between James and the defendant to rob Paul and that the defendant had no knowledge or reason to believe that James intended to assault, rob or kill Paul and that while James was assaulting Paul without the aid or assistance of the defendant, James threatened to shoot the defendant if he did not continue to drive on and the defendant did so unwillingly because of said threats and in fear of his life and if the defendant did not strike any blow or blows or assist James in the striking of any blow or blows or did not aid or abet James in the killing of Paul you must find the defendant not guilty." Do you wish No. 11 charged?

Mr. Carrow: Yes, sir.

The Court: "If there was no conspiracy between James and Schuck to rob Paul at the time of the alleged murder the accused cannot be convicted of murder in the first degree unless you find him guilty beyond a reasonable doubt of wilful, deliberate and premeditated murder." Now, the 12th, 13th, 14th, 15th and 16th, are all on subjects which were covered by the charge; that is upon the subject of the testimony of an accomplice.

Mr. Carrow: Yes, but I think, if your Honor please, they go into that subject a little differently, these requests, than was charged.

The Court: I think that I have charged sufficiently on those subjects, in my opinion I think I have covered the ground.

Mr. Carrow: May I have an exception?

The Court: You may have an exception.

(Exception noted for the defendant.)

(Signed and sealed accordingly.)

FRANK S. KATZENBACH, JR.,
J. (Seal)

JOHN B. KATES,
J. (Seal)

The Court: Now, the 16th, I have covered that in my charge, haven't I?

Mr. Carrow: That is the request to define murder in the first degree?

The Court: No, the 16th, is with reference to a recommendation of imprisonment at hard labor for life.

Mr. Carrow: Oh, yes.

The Court: You withdraw that then? I have granted your request to define murder of the second degree.

Mr. Carrow: Yes.

The Court: Also, you are satisfied with my definition of reasonable doubt?

Mr. Carrow: Yes.

The Court: So that that is withdrawn?

Mr. Carrow: Yes, sir.

The Court: Now, gentlemen, just a word in conclusion; I have told you that the credibility of the witnesses, and the conclusions of fact which you will draw from the evidence are questions which you must settle. The law of the case you must take from the Court. If the Court states the law incorrectly, the defendant has his remedy. If jurors disregard the law, as stated by the Court, the administration of justice would soon become a mockery and the person and property of no man would be safe.

I leave the case in your hands. Your duties are responsible. You are to take care on one hand that the defendant shall not be convicted contrary to law; and on the other hand, you are to see to it that the law is executed.

Mr. Carrow: If your Honor please, may I have a general exception to the charge?

The Court: You may have a general exception. I don't suppose there is anything else you want, is there, Mr. Carrow?

Mr. Carrow: No, sir.

(Exception noted for the defendant.)

(Signed and sealed accordingly.)

FRANK J. KATZENBACH, JR.,
J. (Seal)

JOHN B. KATES,
J. (Seal)

The Court: Now then, the constables will be sworn to take charge of the jury during their deliberation.

The Prosecutor: If the Court please, in view of the voluminous character of the exhibits, thirty-four some exhibits, the jury being entitled to them, I suppose it will be a question for the jury to ask whether they wish them taken into the room.

The Court: I think perhaps, Mr. Wolverton, it would be better if they were taken into the room after the jury have retired; then they can be taken by some of the constables to the room. I think it would be better to take them at once rather than to have the jury call for them.

Judge Kates: Take the exhibits first.

The Court: Is there any reason why the exhibits should not be taken out?

The Prosecutor: No, the only exhibit which is not here is the package of money, which during the recess we have taken back and put in the vault of the bank.

The Court: I suppose there is no objection to this not being submitted, Mr. Carrow?

Mr. Carrow: No, sir.

The Prosecutor: It is a holiday, and it was necessary to keep the vault open.

The Court: Yes, very well; there was no objection on the part of the defendant to that course.

DEFENDANT'S REQUESTS REFUSED.

6. The body of David Paul having been found dead in Burlington County, the presumption is that his death happened in that county and before you can find that a murder happened in Camden County, the State must prove beyond a reasonable doubt that his death occurred in Camden County and not in Burlington County.

7. The State must prove beyond a reasonable doubt, that David Paul was killed in Camden County, if his death occurred in Burlington County you must acquit the defendant.

12. The testimony of James should be regarded with suspicion and too great reliance should not be placed upon such testimony; it should be carefully looked into for the detection of secret motives actuated by malice or the hope of favor or pardon; its credibility must be tested by the closest scrutiny.

13. You should not convict the defendant upon the testimony of James unless it be corroborated upon such material circumstances as tend to establish the guilt of the defendant.

14. The legal competency of accomplices as witnesses is clearly established. Indeed, it is said to be the policy of the law to invite such persons to come forward and expose undiscovered participants in their guilt. Jordaine vs. Lashbrooke, 7 T. R. 609. Yet, tainted as they are with confessed criminality, and testifying, as they often do, under the strong motive of hope of favor or pardon, it is but natural to withhold from them that faith in their testimony which we accord to the upright, disinterested and innocent. It was reasonable that Courts should regard their testimony with suspicion, and look carefully into the secret motives that might actuate bad minds to draw in and victimize the innocent; and, consequently, there has grown up in the Courts a settled practice quite universal, and entitled in its observance almost to the reverence of law, to advise jurors, in the strongest cautionary terms, not to convict defendants on such testimony, unless they can find corroboration in the testimony in other and unsuspected witnesses, upon such material circumstances as tend directly to establish the guilt of the accused. And quite frequently do the Courts, in their discretion, direct juries to acquit and set aside

verdicts founded on testimony of uncorroborated accomplices. But I think it may be asserted as the law that, when the jury acting upon such testimony, he being a legal witness, find a verdict of guilty, it is a lawful verdict, and cannot be disturbed on error.

15. You are cautioned not to convict the defendant upon the testimony of James alone, unless such testimony is in your judgment found to be entirely credible and worthy of belief after careful scrutiny.

DEFENDANT'S REQUESTS TO CHARGE.

1. The fact that the defendant was indicted raises no presumption of his guilt.

2. The law presumes every man to be innocent.
State vs. Wilson, Coxe, 443.

3. This presumption of innocence continues until it is overcome by proof, establishing the defendant's guilt, beyond a reasonable doubt.
State vs. Burke, 52 Vr. 93.

4. The law does not supply by supposition or intendment any chasms or deficiencies in the testimony.
State vs. Wilson, Coxe, 443.

5. In this case the State must establish the guilt of the defendant beyond a reasonable doubt; the burden of proof is always upon the State and that burden never shifts. The defendant may raise a

reasonable doubt in your minds be evidence proving facts showing that he did not commit the crime and while such evidence may not establish his innocence, yet if it raises a reasonable doubt as to his guilt, it is your duty to acquit.

State vs. Lax & Stern, 42 Vr. 386.

6. The body of David Paul having been found dead in Burlington County, the presumption is that his death happened in that county and before you can find that a murder happened in Camden County, the State must prove beyond a reasonable doubt that his death occurred in Camden County and not in Burlington County.

7. The State must prove beyond a reasonable doubt, that David Paul was killed in Camden County, if his death occurred in Burlington County you must acquit the defendant.

8. If you believe from the testimony that there was no conspiracy between James and the defendant to rob Paul you cannot convict the defendant of murder of the first degree unless the State has proved beyond a reasonable doubt that the defendant wilfully, deliberately, and with premeditation killed Paul or helped to kill him by administering physical violence effectively himself or as aidor and abettor of James in the killing.

9. Wilful means an intentional act and deliberate is used to indicate a purpose formed in a mind capable of conceiving a purpose.

State vs. Clifford, 31 Vr. 271.

There must be not only intention to kill but there must be also a deliberate and premeditated design

to kill. Such design must precede the killing by some appreciable space of time, but the time need not be long. It must be sufficient for some reflection and consideration upon the matter for the choice to kill or not to kill and for the formation of a definite purpose to kill, and when the time is sufficient for this, it matters not how brief the time is.

State vs. Bonofiglio, 38 Vr. 244.

10. If you believe from the evidence that there was no conspiracy between James and the defendant to rob Paul and that the defendant had no knowledge or reason to believe that James intended to assault, rob or kill Paul and that while James was assaulting Paul without the aid or assistance of the defendant, James threatened to shoot the defendant if he did not continue to drive on and the defendant did so unwillingly because of said threats and in fear of his life and if the defendant did not strike any blow or blows or assist James in the striking of any blow or blows or did not aid or abet James in the killing of Paul you must find the defendant not guilty.

11. If there was no conspiracy between James and Schuck to rob Paul at the time of the alleged murder the accused cannot be convicted unless you find him guilty beyond a reasonable doubt of wilful, deliberate and premeditated murder.

12. The testimony of James should be regarded with suspicion and too great reliance must not be placed upon such testimony; it must be carefully looked into for detection of secret motives actuated by malice or the hope of favor or pardon; its credibility must be tested by the closest scrutiny.

13. You should not convict the defendant upon the testimony of James unless it be corroborated upon such material circumstances as tend to establish the guilt of the defendant.

14. "The legal competency of accomplices as witnesses is clearly established. Indeed, it is said to be the policy of the law to invite such persons to come forward and expose undiscovered participants in their guilt. Jordaine vs. Lashbrooke, 7 T. R. 609. Yet, tainted as they are with confessed criminality, and testifying, as they often do, under the strong motive of hope of favor or pardon, it is but natural to withhold from them that faith in their testimony which we accord to the upright, disinterested, and innocent. It was reasonable that courts should regard their testimony with suspicion, and look carefully into the secret motives that might actuate bad minds to draw in and victimize the innocent; and, consequently, there has grown up in the courts a settled practice quite universal, and entitled in its observance almost to the reverence of law, to advise jurors, in the strongest cautionary terms not to convict defendants on such testimony, unless they can find corroboration in the testimony in other and unsuspected witnesses, upon such material circumstances as tend directly to establish the guilt of the accused. And quite frequently do the courts, in their discretion, direct juries to acquit and set aside verdicts founded on testimony of uncorroborated accomplices. But I think it may be asserted as the law that, when the jury acting upon such testimony, he being a legal witness, find a verdict of guilty, it is a lawful verdict, and cannot be disturbed on error."

State vs. Hyer, 10 Vr. 601.

15. You are cautioned not to convict the defendant upon the testimony of James alone, unless such testimony is in your judgment found to be entirely credible and worthy of belief after careful scrutiny.

16. If you decide that the defendant is guilty of murder in the first degree you may by your verdict, and as a part thereof, upon and after consideration of all the evidence recommend imprisonment at hard labor for life.

17. Please define murder of the second degree.

18. Please define reasonable doubt.

APPLICATION FOR NEW TRIAL, JUDGMENT AND AFFIDAVITS.

CAMDEN COUNTY OYER AND TERMINER.

STATE,
vs.
RAYMOND W. SCHUCK } On Indictment for Murder.

Camden, N. J., February 25, 1921.

Trial of the cause resumed at 3 o'clock P. M., on the above date, pursuant to adjournment, in the presence of the defendant and counsel for the respective parties.

Mr. Carrow: If your Honor please, before judgment is passed upon this defendant, I desire to make an application for a new trial based upon a series of affidavits which I have here and will now file.

The Court: The affidavits will be received, and I will direct that service of copies of these affidavits be forthwith made by you upon Mr. Wolverton, and I will give the State until Tuesday, if it desires, to make any answering affidavits and file its answering affidavits and serve copies upon you. I regret that I will be obliged to hear the application in Trenton owing to the fact that the Court of Errors and Appeals commences its sessions next week and my attendance in that Court is necessary, and it is my duty, of course, to be present. If next Friday afternoon, just one week from today, at four o'clock at my chambers in Trenton will be agreeable to both counsel for the defendant and counsel for the State, I will hear the argument upon the application at that time. Mr. Schuck, will you rise, please.

The Prosecutor: If your Honor please, in accordance with the verdict of the jury rendered on February 22nd in the case of Raymond W. Schuck, the verdict being murder in the first degree, I now move for sentence.

The Court: Mr. Schuck, you have been found by a jury guilty of the crime of murder in the first degree. The sentence and judgment of the Court is that you suffer death as the punishment for said crime at the time and place and in the manner provided by law. I now hand to the clerk to be delivered forthwith to the sheriff of Camden County a

warrant directed to the principal keeper of the State Prison stating the conviction and sentence, and appointing the week commencing Sunday, April 10, 1921, as the week within which said sentence shall be executed. You may retire, Mr. Schuck. Mr. Wolverton, you have no further matter to bring to the attention of the Court?

The Prosecutor: No, sir.

The Court: The Court will then adjourn.

The affidavits filed by Mr. Carrow are as follows:

STATE OF NEW JERSEY, } *ss.*
COUNTY OF CAMDEN, }

BENJAMIN R. DENNY, being duly sworn according to law, on his oath says that on the 19th day of February, 1921, at two o'clock in the afternoon, I was requested to drive an automobile to the Camden County Court House and there follow whatever instructions the sheriff gave us. The sheriff informed me that my car and three others that were there were to take the Schuck jury out for a ride. He said that he thought it would be a good idea to ride down the Mt. Ephraim Pike as far as Blackwood. He said however he would leave it up to the constables. Then the jury came out of the Court House and three members thereof got into my car. They sat there from three to five minutes and were com-

plaining among themselves that no constables were with them. Then finally a constable got into our car and sat along side of me. And all four cars started off, we went down Haddon Avenue to Lansdown Avenue to Mt. Ephraim Pike. My car was the third in line and I just followed the car ahead of me. As we passed the Evergreen Cemetery which is on the Mt. Ephraim Pike I heard one of the members of the jury that was in my car say something about the cemetery or about the money, the exact words I cannot recall. I was conversing with the jury all the way down the pike and they were talking to me in a general way but nothing was said between the members of the jury and me about the Schuck case. My car was a seven passenger Chandler sedan having two dickey seats directly in back of the driver. Two of the jurymen were sitting on the back seat, one on the dickey seat directly in back of myself, the driver, and the constable was sitting on the front seat alongside of me directly to my right. The constable and I talked generally on our way down and we also talked about the James and Schuck trials, but when ever we did mention the James or Schuck trials, we talked in undertones so that the jurymen would not hear us. But I cannot say whether or not the members of the jury, that were in my car, overheard any of the conversation between the constable and myself regarding the James or Schuck trials, it was our intention, however, that they should not. We went on down to Blackwood, and then around by the asylum. At the pumping station of the asylum the front car stopped and the constable in charge of that car got out and went into the pumping station and got a glass of water for one of the jurymen. While the

constable was gone the chauffeur and the three jurymen were alone together. Then we all went into the pumping station and we all talked to the engineer about the pumps and how they worked and things of that kind. While at the pumping station one of the jurymen, who was an occupant of the other car recognized me and came over to where I was and we conversed together on general topics for about a minute or two. Then we all got back into the cars and we started back up Mt. Ephraim Pike and I stopped my car at the home of one of the jurymen and he asked the constable to go in and tell his wife to telephone to Nan that she would take her to Haddonfield on Tuesday morning and he would try and be there as he thought that the trial would be over by then. The constable then got out of the car and went into the yard and conversed with a woman and while he was gone the three jurymen and myself were left alone together. We then came up the Mt. Ephraim Pike to the Fairfield Estates over to Haddon Heights then up the White Horse Pike, across Yorkship Village to Broadway and up Broadway to the Court House.

BENJAMIN R. DENNY.

Sworn and subscribed before me this 25th day of February, 1921.

LAWRENCE M. VERGA,
Notary Public of N. J.

STATE OF NEW JERSEY, }
COUNTY OF CAMDEN, } *ss.*

JOHN R. SMALLEY, duly sworn according to law on his oath says that I am the proprietor of an automobile at Mt. Ephraim and Chestnut Streets, Camden, New Jersey. That on Saturday afternoon, February 19, 1921, I was employed by B. F. Schroder and Sons to be present at the Camden County Court House at two o'clock in the afternoon for the purpose of taking a portion of the jury out for a ride, in company with three other cars. Three members of the jury together with a constable got into my car at the said Court House. I followed the car ahead of me and we went down Haddon Avenue to Lansdown, over Lansdown to Mt. Ephraim Avenue thence along Mt. Ephraim to Blackwood. That Evergreen Cemetery is situated along Mt. Ephraim Avenue and as we passed the said cemetery that either I called attention to the occupants of my car that was the place where the money was supposed to be buried or some other occupant of the car said it. To the best of my knowledge I think I made the remark. We then went on to Blackwood Town and stopped the machine at the pump station at the Camden County Asylum. There the occupants of my car got out and left the car for about five minutes. We returned to Camden by way of Mt. Ephraim Pike to Haddon Heights to Camden and coming up Broadway as we passed the Broadway Trust Company a remark was made that was the Broadway Trust Company or that was the place where the money came from or words to that effect.

JOHN R. SMALLEY.

Sworn and subscribed before me this 24th day of February, 1921.

JOS. R. HUYETT,
Justice of the Peace.

STATE OF NEW JERSEY, }
COUNTY OF CAMDEN, } *ss.*

HARRY BURT, being duly sworn according to law on his oath says that he is in the employ of B. F. Schroder and Sons in the capacity of chauffeur, that on Saturday afternoon at two o'clock on February the 19th, 1921, I was instructed to go to the Camden County Court House in the company with three other cars and take the members of a jury out for a ride. My car was the fourth car in line and I was in a limousine, the only limousine model of the four cars. Three members of the jury and a constable got into my car and I followed the cars ahead of me. We went down Haddon Avenue to Evergreen Cemetery to Blackwood. Thence around by the asylum to the pumping station where the cars ahead of me stopped and I stopped my car and the members of the jury that were in my car joined the other members of the jury that had already gotten out. The members of the jury and the constables and the drivers of the cars mingled freely and conversed together. After about five minutes they all got back into the cars and we all returned to Camden via. the Mt. Ephraim Pike, White Horse Pike and Broadway.

HARRY BURT.

Sworn and subscribed before me this 25th day of Feb., 1921.

JOHN A. RIGGINS,
M. C. C. of N. J.

STATE OF NEW JERSEY, }
COUNTY OF CAMDEN, } *ss.*

WINFIELD DAILEY, being duly sworn according to law on his oath says that he is in the employed in the capacity of foreman of the garage. On Saturday afternoon at two o'clock on February 19th, 1921, I was instructed to go to the Camden County Court House and take the Schuck jury out for a ride. When we got to the Court House three jurymen got into my car and a constable. My car was the first car in line and there were three other cars. Three members of the jury were in each car and a constable. At the suggestion of the constable in my car I drove my car down to Mt. Ephraim Pike. Down Mt. Ephraim Pike passing Evergreen Cemetery on the way to Blackwood Town. As we passed the pumping station of the asylum on our return from Blackwood, one of the jurymen in my car wanted a drink of water. I stopped my car and a constable got out and went in to get the water. The constable was gone about three or four minutes leaving the three members of the jury and myself alone in the car. While he was gone the four of us held a general conversation. Then all the occupants of the cars went into the pumping station. While we were all either in the pumping station or looking at the water we all held a general conver-

sation. Then the jurymen returned to the cars and we came back to Camden by way of the Fairfield Estates to Haddon Heights, up the White Horse Pike across through Yorkship Village to Broadway and up Broadway to the Court House.

WINFIELD DALEY.

Sworn and subscribed before me this 25th day of Feb., 1921.

JOHN A. RIGGINS,
M. C. C. of N. J.

ANSWERING AFFIDAVITS.

STATE OF NEW JERSEY, }
COUNTY OF CAMDEN, } *ss.*

DAVIS GROVER, being duly sworn according to law, on his oath deposes and says:

I am a constable in the employ of the County of Camden, and was one of the four constables assigned to the Schuck trial. On Saturday afternoon, February 19, 1921, under instruction to the sheriff, the jury and constables were taken for a ride in four automobiles. There were three jurymen, Riggs, Holland and Gourley. We left the Court House shortly after two o'clock and drove out Haddon Avenue to Lansdown Avenue, over Lansdown Avenue to Mt. Ephraim Avenue and from thence to Blackwood where we circled the island and started back toward Camden.

Our car was car number four, and when we got to the pump house, on our return to Camden, while at

the asylum, the jurymen and constables left the cars and entered the pump house for the purpose of getting a drink of water. They kept together in a group in charge of the constables and only remained in the pump house about five minutes, if it was that long and then returned to the cars. While in the pump house, they did not discuss the case in any way, either among themselves or with the constables, nor did they speak to anyone other than the constables, not even speaking to the engineer.

We reentered the cars, and when we got to Hilltop, car number three stopped at a point directly in front of juryman Fell's home, at which point constable Williams who was in charge of car number three, left the car and went into the yard and spoke to Mrs. Fell and immediately returned to the car. He only left the car for a minute or two.

We then came to Camden by way of Mt. Ephraim, Haddon Heights, and Broadway. During the duration of the trip, at no time did the jurors discuss the case in any manner, nor did they speak to anyone other than the constables, nor did anyone other than the constables speak to them.

DAVIS GROVER.

Sworn and subscribed before me this 28th day of February, A. D. 1921.

CHARLES STUART STRAW,
Atty.-at-Law of N. J.

STATE OF NEW JERSEY, }
COUNTY OF CAMDEN, } *ss.*

HARRY BURT, being duly sworn according to law, upon his oath deposes and says:

I am employed by B. F. Schroeder & Sons, as a chauffeur.

On Saturday, February 19th, 1921, I was instructed to go to the Court House at two P. M. to take the Schuck jury out for a ride. There were three other cars there. I was driving a limousine and was the fourth car in line.

When I got to the Court House the car waited for a few minutes and then the jury came out accompanied by four constables. Three of the jury and one constable got into each car, and when all had gotten into the cars, we started down Haddon Avenue to Lansdown Avenue then over to Mt. Ephraim Avenue and then to the county asylum at Blackwood where the party stopped at the pump house for a very few minutes, the jury with the constables got out and all went into the pump house for a few minutes and then came out and got into the cars. I did not see any one talking to the members of the jury other than the constables, either at the pump house or any other place along the trip and I did not hear any of them talking about the case at all.

We then started toward Camden and when we got to Hilltop, a short man, whom I learned later was a constable, got out of the third car and went into a yard and spoke to a woman for a minute and then came right back and got into the car and we came on up to Camden. By way of the Mt. Ephraim Pike, the White Horse Pike and Broadway.

At no time on the trip did any strangers talk to the jury or did they talk to any strangers.

HARRY BURT.

Sworn and subscribed before me this 28th day of February, 1921.

CHARLES STUART STRAW,
Atty.-at-Law of N. J.

STATE OF NEW JERSEY, }
COUNTY OF CAMDEN, } *ss.*

JOHN R. SMALLEY, being duly sworn according to law upon his oath, deposes and says:

I am the owner and operator of an automobile which I hire for general purposes. My place of business is Mt. Ephraim Avenue and Chestnut Street, Camden, New Jersey.

On Saturday, February nineteenth, nineteen hundred and twenty-one sometime in the afternoon, I received a telephone call from Winfield Daley, 638 Clinton Street, Camden, New Jersey, who is the manager for B. F. Schroeder and Sons, requesting me to bring my car to the Camden Court House, that afternoon at two o'clock, for the purpose of being one of four cars who would take the Schuck jury out for a ride.

I came to the Court House at the time appointed, and ten or fifteen minutes later a gentlemen who was Sheriff Hatch, so I was told, came out with the jury and four men whom I learned later were constables. Three of the jury and one of the constables were put into my car, and each of the other cars were occupied by three jurors and one constable. The

first car was driven by Winfield Daley, my car was second in line, the third car was driven by Benjamin Denney and the fourth by Harry Burt.

The cars left the Court House and went down Haddon Avenue to Lansdown, over Lansdown to Mt. Ephraim, out Mt. Ephraim Avenue to Blackwood Asylum. On the way to the asylum we of necessity, passed the Evergreen Cemetery which is situated on Mt. Ephraim Avenue and as my car passed the cemetery, someone, it may have been myself, I do not know whom, made some slight reference to the fact that that was the cemetery where the money was supposed to have been buried. I may have made the remark, but at this time I am not at all certain.

We arrived at Blackwood Asylum, without stopping a car at any point, and when we reached the asylum, the machines were stopped at the pump house of the asylum. Here the occupants of the four cars left the cars and entered the pump house, keeping together however, in a group. A few minutes later, I left my car and walked through the pump house, where I had an opportunity to observe who, if anybody, was in the pump house other than the occupants of those cars. The only persons there, other than the occupants of the cars, were two men, one apparently the engineer and the other man was off in a room by himself and was apparently an inmate of the institution.

During the time which the machines were stopped here, I had an opportunity to observe the occupants of the cars and at no time did I see them conversing with anyone other than themselves.

I overheard some of the conversation which was carried on among themselves and it seemed to refer to the beauty of the stream, the general appearance

of the country, and the trout that were formerly in those waters. The parties then reentered the cars and were started toward Camden by way of the Mt. Ephraim Pike.

When we got to the first town, this side of Blackwood the cars stopped for a minute, and a little man, whom I learned later, was a constable, left the car number three and went into the yard of a house where I saw a lady standing on the porch of the side yard. The position of my car was such, that I could not see whether or not, this man entered the house, but I do know that he was only gone a minute or two and none of the jurors left the cars, nor did anyone else leave the cars at that time.

We then came up Mt. Ephraim Pike to Fairfield Estates, turned toward the right, over the new boulevard to White Horse Pike, Haddon Heights, and thence to Camden.

We came up Broadway in Camden, and as we passed the Broadway Trust Company, a remark was made that that was the Broadway Trust Company where the money came from, or some such remark. I cannot say of my own recollection or knowledge, who made that remark. At no time during the entire time that the jury were out, did any one, to my knowledge not a member of the jury or a constable attached thereto, speak to the jury or to anybody else in the party.

Aside from the two references made above, one to the Evergreen Cemetery, and the other to the Broadway Trust Company, the case was not discussed in any manner that I know of, during the duration of the trip.

JOHN R. SMALLEY.

Sworn and subscribed to this eighth day of February, 1921.

CHARLES STUART STRAW,
Atty.-at-Law of N. J.

STATE OF NEW JERSEY, }
COUNTY OF CAMDEN, } *ss.*

FRANK O'BRIEN, being duly sworn according to law, on his oath deposes and says:

I am a constable in the employ of the County of Camden, and was one of the four constables assigned to the Schuck trial.

On Saturday, February 19, 1921, I was directed with the other constables to take the jury for a ride in four machines which had been provided for them, under the direction of Sheriff Hatch. We left the Court House shortly after two o'clock and drove down Haddon Avenue to Lansdown, over to Mt. Ephraim, down Mt. Ephraim to the asylum at Blackwood, I rode in car number one, and with me were, Hill, Fowler and Keegan. There were three jurymen and one constable in each car. We circled the island at Blackwood and on the return to Camden stopped at the pump house to get a drink of water for juryman Keegan who wanted to take a dose of medicine and here the jurymen asked if they could go into the pump house to get a drink of water and use the toilet and so the jurymen accompanied by the constables left the cars and went to the pump house for that purpose.

They remained together in charge of the constables and did not speak a word to anyone other than themselves and constables, and the only thing

I recall hearing them say, was "Back to the machines" and the constables directed them to return to the cars. Juryman Fell, had spoken of his wife's illness and desired to know how she was, and as the cars came toward Camden, near Hilltop, car number three, in charge of Constable Williams, drove ahead and stopped at a point in front of Fell's house, at which point Constable Williams left the car and walked rapidly into the yard where he spoke to Mrs. Fell and immediately returned to the car. The distance from the car to where Mrs. Fell was standing was hardly 60 feet. As Constable Williams left his car, I immediately turned in my car, and watched the three jurymen in Williams' car and continued watching them until Williams returned. We then came to Camden by way of Mt. Ephraim Avenue, Haddon Heights and Broadway.

During the duration of the ride from we left Camden until our return, the jurymen did not discuss the case in any manner, nor did anyone speak to them, nor they to anyone other than the constables. They did not even speak to the engineer or the other man that was in a room by himself at the asylum, while we were there.

FRANK O'BRIEN.

Sworn and subscribed before me this 28th day of February, A. D. 1921.

CHARLES STUART STRAW,
Atty.-at-Law of N. J.

STATE OF NEW JERSEY, }
COUNTY OF CAMDEN, } *ss.*

ISAIAH S. HATCH, being duly sworn according to law, on his oath, deposes and says:

I am the sheriff of Camden County, having entered upon my duties as such sheriff, on November 9th, 1920.

The trial of the State vs. Raymond W. Schuck, began in the Camden County Court of Oyer and Terminer on Monday, February 14th, 1921, and lasted until Tuesday, February 22, 1921, during all of which time the jury which had been impanelled was in active service.

On the morning of Friday, February 18th, 1921, juryman No. 12, one Joseph Keegan, was taken ill and that fact was reported by one of the constables in charge of said jury and in turn reported to Justice Frank S. Katzenbach, Jr., then presiding at said trial, and he was instructed by Justice Katzenbach to have the juror examined by a physician immediately.

Dr. Paul M. Mecray, of this city, was called and he examined Juryman Keegan and found him to be suffering from an attack of vertigo superinduced by extreme nervousness resultant from the close confinement and necessary concentration incident upon the trial of the cause.

On Saturday, February 19th, 1921, Justice Katzenbach directed me to see that the jury were given an opportunity to have recreation, and suggested in order that the tension of the strain might be relieved that I cause the jury to be taken for an automobile ride.

Accordingly I procured four automobiles and the jury accompanied by the four constables assigned

to them left the Court House in these four automobiles to ride around the county. There were three jurors and one constable in each car, and the four cars were directed to keep close together. I saw the cars leave the Court House shortly after two o'clock on that afternoon and they left in a group.

ISAIAH S. HATCH.

Sworn and subscribed to before me this twenty-eighth day of February, A. D. 1921.

CHARLES STUART STRAW,
Atty.-at-Law of N. J.

STATE OF NEW JERSEY, }
COUNTY OF CAMDEN, } *ss.*

WILLIAM WILLIAMS, being duly sworn according to law upon his oath, deposes and says:

I am a constable in the employ of the County of Camden, and was assigned to the Schuck jury. Under the direction of the sheriff, four automobiles were provided on Saturday, February 19, 1921, to take the jury for a ride in the afternoon. At two o'clock the four cars arrived and the jury accompanied by myself, Constables Frank O'Brien, Davis Grover and Edward Campbell, came downstairs and entered the cars. There were three jurymen and one constable assigned to each car. In my car, which was car number three, were Jurymen Fell, App, and Sibley. The driver's name was John Denney. We drove to Haddon Avenue to Lansdown, over Lansdown to Mt. Ephraim, out Mt. Ephraim to the county asylum. When we got to the asylum, we circled the island and started home, stopping at the

pump house for the men to get a drink of water and stretch themselves for they had been riding just three quarters of an hour.

The occupants of my car and myself, got out and joined the other jurymen and constables, and all went into the pump house as stated above.

While in the pump house, they got a drink of water and kept to themselves, and the only remark they made was "back to the machines." They did not even talk to us, the constables. The engineer was at the pump house and there was a man who looked like an inmate, back in a separate room, and not a word was passed by either of these men and the jurymen. We reentered our cars and started for Camden. After we had started, Juryman Fell, said to me, "My wife is ill, I would like to know how she is." "All right, I will find out for you." Our car went in the lead, followed by the other three cars and stopped at a point at Hilltop, in front of Fell's home. I alighted from the car, and he walked in the gate and through the yard where I saw Mrs. Fell standing by the side porch. I kept watching the three jurymen in the car however, and at no time while I was out of the car were they out of my sight. I said to Mrs. Fell, "How are you?" and she replied, "I am better and all right." I said (referring to juryman Fell), "He is over there in the car" and she waved her hand toward him from where she was standing and he waved his hand at her from where he was sitting in the car. I returned to the car and the car went on. The distance from where the car stood and where Mrs. Fell was standing, was about 60 feet. We returned to Camden by way of Mt. Ephraim Pike, Haddon Heights and Broadway.

During the entire trip there was nothing said by any of the jurymen, relative to this case, nor did anyone speak to them or they to anyone other than the constables in charge; nor did they discuss with the constables anything pertaining to the case in any manner whatsoever.

WM. W. WILLIAMS.

Sworn and subscribed to this 28th day of February, 1921, A. D.

CHARLES STUART STRAW,
Atty.-at-Law of N. J.

STATE OF NEW JERSEY, }
COUNTY OF CAMDEN, } *ss.*

BENJAMIN R. DENNY, being duly sworn according to law, on his oath deposes and says that he is in the employ of the B. F. Schroeder Company and occasionally drives automobiles for the Schroeder Auto Service.

On Saturday afternoon, February 19th, 1921, about 2 P. M. I received instructions that it was necessary for me to drive one of the automobiles and report at the garage before 2 P. M. I did this and took a Chandler sedan and received instructions to go to the sheriff's office. I went to the sheriff's office, and I received my instructions there from Mr. Daly, foreman of the garage who also drove one of the cars. I was the third car in line. The foreman told me that we were going to take the Schuck jurymen out for a ride. My instructions from the foreman were to take the car ahead of me and to keep in close contact to that car.

Three jurymen got into my car at the Court House, the other was a constable, and the constable got into the seat alongside of me. No stops in the machine were made until we reached the Blackwood Asylum, with the exception of one stop, short of Chew's Landing where my radiator got warm, and I stopped the car to attend to it, but I immediately got up with the rest of the machines. When we got to Blackwood water plant, the car stopped and we got out of our car, walked to the pumping station where the jurors who were in my car got a drink of water.

During the entire time they were in my presence and in the presence of the constable in charge of my car. After they returned to the automobile we then proceeded to Camden.

On the way down to Blackwood, one of the jurors named Fells, the stout man, said that he wanted to send a message to his wife and the constable said that this could be done on the return trip. On the return trip my car pulled up in advance of No. 1 and No. 2 and came to a standstill on the road near Hill Top, which the juryman indicated as being in front of his house. All the cars stopped here together and no one left the cars, with the exception of the constable in my car. The juryman asked him to convey the message which was to the following effect, that he wished his wife to get in touch with Nan and tell her and his wife to go on Tuesday. The wife was in the side yard and he conveyed a message and returned to the car.

During this time the constable was in full view of the car and we were in full view of him. We then continued the ride on to Camden. During the entire time that I was on this trip, nothing was said by me nor by any one in my presence and the jurors relating to this case.

BENJAMIN R. DENNY.

Sworn and subscribed to before me, this twenty-eighth day of February, A. D. 1921.

CHARLES STUART STRAW,
Atty.-at-Law of N. J.

STATE OF NEW JERSEY, }
COUNTY OF CAMDEN, } *ss.*

WINFIELD DALY, being duly sworn according to law, on his oath deposes and says:

That he is in the employ in the capacity of foreman of the Schroeder Auto Garage, this city, on Saturday afternoon, February 19th, 1921, about 2 P. M. I received a call from the sheriff's office, Camden County, that they desired the use of four enclosed automobiles, and that they should report at the Court House. I accordingly gave instructions for four cars at the garage and made arrangements to drive one myself. The remaining three drivers were Smalley, Denny and Burt.

When we arrived at the sheriff's office, I was advised that the cars were to be used to take the jury in the case of State vs. Raymond W. Schuck, out for a ride. Three jurymen were to be placed in each car, each with a constable. My car was the first car in line. In my car was a juryman whose eyesight was somewhat affected and for that reason he had to be helped into the car. He could apparently tell the time of the day, but had to be assisted when he walked. I led the cars and gave instructions to the remaining drivers to follow my car. I had orders that all cars were to be kept close together, and these orders were obeyed.

During the entire trip the remaining three cars were in my sight, with the exception of an interval of a few seconds at Chew's Landing Road, where there was a turn in the road and the fourth car could not be seen, but we stopped and it caught up with us again.

There were only two stops made by the machines in the entire route, one at the Blackwood Asylum water plant, for a drink of water. The constable got out and got the water for the juryman that I previously referred to who was apparently not very well, but at no time was the constable beyond sight of the car. At the pumping station the car was directly in front of it, and the spigot was about 25 or 30 feet from the car. During the short interval that he was getting the glass of water, nothing was said in regard to the case by me to the jurors, and in fact nothing was said by me to them or by them to me other than the constables, and I said nothing to any of the jurors relating to this case.

The jurors got out of the car here at the water station for a minute and were in the presence of the constable and myself during the entire time that they got out. They had gotten out of the car to stretch themselves as they had been sitting for probably three-quarters of an hour.

On our trip back, a short stop was made near Chew's Landing Road, near the home of one of the jurors named Fell, the stout man, and all four cars stopped together and no one came out to the cars, and no one left the cars except possibly the constable that was in the particular car in which that juror was in, and then the constable was within sight of the particular car in which he was driven. We then proceeded back to the Court House.

During the entire trip I personally said nothing to the jurors nor did I hear any one else say anything relating to this case.

WINFIELD DALY.

Sworn and subscribed to before me this twenty-eighth day of February, A. D. 1921.

CHARLES STUART STRAW,
Atty.-at-Law of N. J.

STATE OF NEW JERSEY, }
COUNTY OF CAMDEN, } *ss.*

PAUL M. MECRAY, M. D., being duly sworn according to law, on his oath, deposes and says:

That I am a practicing physician and surgeon, with offices at #504 Cooper Street, Camden, New Jersey:

That on Friday morning, February 18th, 1921, at the direction of Honorable Frank S. Katzenbach, Jr., then presiding at the trial of the State vs. Raymond W. Schuck, I examined and prescribed for Joseph Keegan, who at that time was a member of the Schuck jury.

I found him to be suffering from an attack of vertigo superinduced by extreme nervousness, which in my opinion was caused by the close confinement and concentration attendant upon his service as a member of the Schuck jury.

PAUL M. MECRAY.

Sworn and subscribed to before me, this twenty-eighth day of February, A. D. 1921.

CHARLES STUART STRAW,
Atty.-at-Law of N. J.

STATE OF NEW JERSEY, }
COUNTY OF CAMDEN, } *ss.*

EDWARD CAMPBELL, being duly sworn according to law, on his oath deposes and says:

I am a constable in the employ of the County of Camden, and was one of the four constables assigned to the Schuck trial.

On Saturday afternoon, February 19th, 1921, the jury was taken for a ride and in charge of the constables and under the direction of Sheriff Hatch. Four cars were provided and a constable and three jurymen to each car. I was in charge of car number two and with me in that car were Jurymen Fifield, Myers and Hoffman.

We left the Court House shortly after two o'clock and drove out Haddon Avenue to Blackwood where we circled the island and started back toward Camden.

As we passed the Evergreen Cemetery, which is on Mt. Ephraim Avenue, someone in the car, I do not know who, said, "That is the cemetery" or "Is that the cemetery?" I do not know which, no reply was made by anyone, to this remark.

On the way back to Camden, the cars stopped at the pump house at Blackwood, where the jurymen and constables left the cars and went into the pump house to get a drink of water. They remained together in charge of the constables and we were only out of the cars about five or seven minutes. They did not speak to anyone in the pump house other than themselves or the constables not even speaking to the engineer that was there.

As we got to Hilltop, car number three, in charge of Constable Williams, took the lead, and we all stopped in front of Juryman Fell's house where Con-

stable Williams left the car and went into the yard and spoke to Mrs. Fell who was standing on the side porch. He then immediately returned to the car having been gone only a minute or two.

We then returned to Camden by way of Mt. Ephraim Pike, Haddon Heights and Broadway. During the duration of the trip, the jury did not discuss the case in any manner, nor did they speak to anyone other than the constables at any time.

ELWOOD CAMPBELL.

Sworn and subscribed before me this 28th day of February, A. D. 1921.

CHARLES STUART STRAW,
Atty.-at-Law of N. J.

ASSIGNMENTS OF ERROR.

NEW JERSEY COURT OF ERRORS AND APPEALS.

THE STATE OF NEW JERSEY, *Defendant-in-Error*,	On Error in the Camden Court of Oyer and Terminer.
vs.	Assignments of Error and Specifications of Causes for Reversal.
RAYMOND W. SCHUCK, *Plaintiff-in-Error*.	

Afterwards, to wit, on the 28th day of February, 1921, before the Judges of the said Court of Errors and Appeals in the last resort in all causes, at Trenton, comes the said Raymond W. Schuck, plaintiff-in-error, by his counsel, James Russell Carrow, and says that in the entire record and proceedings had upon the trial of said cause and also in the giving of judgment aforesaid there is manifest error in this:

1. Because the Court erred in overruling the motion of counsel for defendant to quash the array of jurors which was summoned to hear said cause, it appearing to the Court on said motion without contradiction that:

"1. The Commissioners of the juries of the County of Camden did not, at least thirty days prior to the commencement of the present December term of the Circuit Court, make two lists alphabetically arranged, of the persons liable to jury duty having to the just distribution of jury service among those persons qualified therefore in the various wards and municipalities of said county, with their occupations and places of abode and designating their respective municipalities and wards (if any), in municipalities."

"2. At the time of the selection of the said jury list there were ten thousand women, more or less, in the respective municipalities of Camden County who were duly qualified for jury service."

"3. That the Commissioners deliberately failed and refused to select any of the said women for jury service."

"4. That the petit jury list for the present term of Court was drawn from the five hundred names which were selected by the said Commissioners as aforesaid and contained the names of no women."

"5. Said selection of the jury was and is contrary to the rights of the defendant under the Constitution of the United States and of the State of New Jersey and the Statute of the said State of New Jersey in such cases made and provided."

2. Because the Court erred when William E. Alberston was on the witness stand in admitting the following questions and answers over the objections of counsel for the defendant:

"Q. Have you ever seen the car of Frank James?

A. I have.
Q. What kind of car is it?
A. A Ford car.
Q. Of what type?
A. Touring.
Q. What type of car did James have?
A. A Ford touring car.
Q. Whose car was it?
A. James' car.
Q. And what time did he arrive?
A. About nine or nine-thirty in the evening.
Q. What was the condition of the car?
A. The windshield was broken, the cardboard removed from the left rear door, radius rod broken, a hole in the top about two inches lengthwise and an inch and a quarter across, a triangular cut.
Q. How long was the car at your place of business?
A. From October 6th until the 13th.
Q. By whom was it gotten on October 13th?
A. Frank James.
Q. Did you personally notice whether anyone was with him at the time?
A. I did not.
Q. Under what circumstances did he get the car?
A. Why, I was supposed to deliver the car in Camden to him—I was supposed to call him up at twelve o'clock.
Q. Well, no conversation. Where did you meet him that afternoon?
A. I met him at the barber shop in Mount Ephraim.
Q. Did you have the car with you?
A. I had the car at the barber shop.

Q. And is that where it was delivered to him?

A. That is where he got the car from; he drove me from there to the garage."

3. Because the Court erred in overruling motion of defendant's counsel to strike out all the testimony of William E. Albertson, it being incompetent and immaterial as affecting this defendant.

4. Because the Court erred in admitting the testimony of Thomas F. Hellings over the objection of defendant's counsel, as follows:

"A. They engaged a cab.

Q. Who did?

A. I don't distinctly remember.

Q. That is, you don't know whether it was James or Schuck?

A. I don't know whether it was James or Schuck.

Q. Did they enter your cab at that time?

A. They did.

Q. And where were they taken?

A. Taken up Broad, around the Hall, and up Broad Street.

Q. Were there any directions given to you by either of them in the presence to the other as to where you should take them?

A. One of them made a remark that he wanted to go to an apartment called the Arlington uptown.

Q. Were you given directions as to location of the apartment?

A. They were not sure of the whereabouts of the apartment and I wasn't, either.

Q. Then what did you do after receiving those directions?

A. I thought that it was uptown, around Diamond Street somewhere, and went up Broad Street and out Diamond, went out Diamond, and they did not recognize any place there, and I went down Sixteenth to Fairmount Avenue, and they said, 'Maybe I think it is over on Eighteenth Street ——'

Q. Did you locate the Arlington apartments?

A. No, sir, we went over to Eighteenth Street and down Eighteenth Street slowly, and he says, 'Maybe we can get a phone.' We stopped at a saloon at 18th and Shamokin.

Q. What took place when you reached the saloon?

A. Well, I told them maybe they could get a phone in there, so they got off and went in the saloon.

Q. Did you go in?

A. I did.

Q. How long did they remain in there?

A. About two hours.

Q. And what took place while they were in there—what did they do?

Q. You say they went into the saloon?

A. Yes.

Q. And stayed there about two hours?

A. About two hours.

Q. During that time did you notice the actions or words of the defendant, Schuck?

A. Yes, he made several remarks to me, asked me if I had driven him before, and I said I thought I had.

Q. What was that?

A. He asked me if I had driven him before, and I said I thought I had. He said, 'Where?' I said I thought I got him from the Bourse Building.

Q. From the Bourse Building?
A. From the Bourse Building.
Q. Oh, yes, go ahead.
A. After awhile he said, 'You are right about the Bourse Building.' He kept saying to me, 'You will take care of us, won't you—you will take care of us?' I said, 'Yes, I will take care of you.' I did not know what he meant, but he said it anyhow.
Q. Had he been drinking?
A. We were all drinking.
Q. You were all drinking?
A. Yes.
Q. How many were in the party?
A. About four beside myself.
Q. Were the other men or women?
A. Two girls.
Q. Was there any money spent?
A. Quite a bit.
Q. What do you say?
A. Quite a bit.
Q. How was it spent?
A. For the drinks. Schuck gave me $5.00.
Q. For what reasons?
A. Well, after he made the remark—'You will take care of us?' I said, 'Sure,' and he handed me $5.00. I don't know, it wasn't for the taxi bill, because I had already been paid for that.
Q. Were there any other remarks passed as to the character of the party?
A. Well, he says James was celebrating his birthday, and he says, 'I might as well let him spend his money,' he said, 'he made me spend when I was celebrating mine.'
Q. Who said that?
A. Schuck.

Q. What time did they leave the saloon?

A. About half-past twelve.

Q. Did you go with them when they left?

A. I left with them in the cab; I took them over to Green Street.

Q. Who went in the cab?

A. Schuck, James and two girls.

Q. Where did you take the party?

A. Over to a house on Green Street.

Q. What took place when you reached the house?

A. They got out of the cab, asked me whether they owed me anything, and I said, 'No, it has been paid for,' and they says—I asked them if I would see them in the morning; I was to get them a car, they were going to go to New York; I said I was going to get them a touring car.

Q. Who asked for the car in the morning?

A. I don't distinctly remember whether it was Schuck or James, but it was one of the two. I says, 'Will I see you in the morning?' and they said, 'Yes, if you get a car come around.'

Q. Where did they go after you reached this house, at Green Street?

A. They went into the house.

Q. Who went in?

A. The two girls and Schuck and James.

Q. Did they say, or either of them say what time you were to meet them the next day?

A. They didn't say; they said, 'Come around in the morning.'

Q. They were both together at the time?

A. They were both together at the time, yes.

Q. Now, when they were both together, did either one of those two suggest what time you should return the next day?

A. I don't remember what they did say; I don't remember what time they did say.

Q. When they were both together did either one or the other make a suggestion about the touring car?

A. Yes.

Q. What was that?

A. Why, they asked me if I could get a touring car, and I says, 'Yes, I think I can.'

Q. Did you ask them for what purpose they wanted it?

A. Well, I did, but I don't exactly remember what they answered. But I mentioned the fact New York; I mentioned New York myself. They said, 'All right,' so I says, 'I will try to get a car in the morning.' I says, 'I will see about it tonight before I go home.'

Q. Did you return next morning?

A. I did not.

Q. For what reason did you not return?

A. Well, in the first place I couldn't get the car.

Q. Then you haven't seen them since?

A. I haven't seen them until now.''

5. Because the Court erred in overruling the motion of defendant's counsel to strike out the testimony of Thomas F. Hellings, it being incompetent and immaterial and not part of the *res gestae.*

6. Because the Court erred when George Jauss was on the witness stand in admitting the following questions and answers overruling the objection of counsel for the defendant, as follows:

''Q. On October 7th last did you see the defendant, Raymond Schuck?

A. Yes, sir; sometime late in the evening.
Q. Where?
A. 1509 Poplar Street.
Q. Who was with him?
A. Frank James and some young ladies.
Q. Was Schuck in your company that evening?
A. No, sir.
Q. How long was he with you?
A. A short time.
Q. During the time that you saw him; where was it and under what circumstances?
A. At 1509 Poplar Street, when I was about ready to be dismissed.
Q. Where had you—you say you were about to be dismissed?
A. Yes, sir.
Q. Do you mean by that that Schuck was not with you when you first had the car?
A. Yes, sir.
Q. Then Schuck came afterwards?
A. Yes, sir.
Q. I see. And under what circumstances did you meet him?
A. Being as I was there when he came in.
Q. You were outside with whom?
A. With Frank James.
Q. And who else?
A. And some young ladies.
Q. And where was that?
A. 1509 Poplar.
Q. That was the evening of October 7th?
A. Yes, sir.
Q. Then you say that Schuck came in?
A. Yes, sir.
Q. Was anything said by him when he came in?

A. Not outside of there was a remark passed that he was ——

Q. Now, after Mr. Schuck joined the company at the time when you say you were about to be dismissed, what if anything did he say when he arrived, or anyone say to him?

A. The remark was passed that he was a fine one for staying away so much length of time.

Q. What did he say?

A. He says he couldn't help it, he was busy.

Q. Did he leave shortly after that?

A. Yes, sir.

Q. Were any instructions given either by James or Schuck in the presence of each other?

A. Yes, sir, to return the next day.

Q. At what time?

A. I just can't remember the time. Sometime in the morning.

Q. Did you return?

A. Yes, sir.

Q. Whom did you see at the place?

A. Ray Schuck, Frank James and some girls.

Q. What took place after you got there?

A. They had left the house, got into the car, and I had dismissed one girl at 15th and Jefferson and another girl at 15th and Montgomery Avenue.

Q. Was the defendant with you in the car when you say you dismissed those girls?

A. Yes, sir.

Q. What do you mean by dismissed them, that they left the car?

A. They left the car, yes.

Q. Then where did Schuck and James go?

A. I was directed then to go for a ride, anywhere I suggested.

Q. Where did you ride?

A. Up Broad Street to what they call the Northeast Boulevard for a short distance, turning around in a side road and heading back in to Fortside Inn, stopped at Fortside Inn and had dinner.

Q. Then where did you go?

A. Was directed to follow back in to the city again, which I did, coming down Broad Street, got as far as Broad Street and Euclid Avenue, was stopped at Broad and Euclid Avenue and they had met a young lady.

Q. What took place when they met the young lady?

A. Frank James got out and talked to the young lady a few minutes, Ray Schuck sitting in the car, passing the remark to me ——

Q. Who passed the remark?

A. Ray Schuck; that he was sorry that he didn't get out and talk to the young lady.

Q. Then where did you go or what did you do?

A. Stayed there for a few minutes, leaving the young lady there, carried on downtown again into 15th and Green. We stopped and I was directed to go back to the garage for gas and oil, which I left Ray Schuck and Frank James at a Green Street address, from there I also did so, went to the garage ——

Q. After you left them at the Green Street address, did you return?

A. Yes, sir.

Q. How soon?

A. In about fifteen or twenty minutes.

Q. Whom did you see when you got there?

A. Ray Schuck and Frank James and a young lady.

Q. What took place then?

A. They came out, got into the car, went back to the corner of 15th and Berks, where they had met a young lady.

Q. Who was the young lady, do you know?

A. No, sir.

Q. I don't mean the name, but was it the same one they had previously talked to?

A. Yes, sir.

Q. Then what took place?

A. She had got into the car and rode on down through town, got into town, going straight down Broad Street. I was stopped at Broad and Spruce to telephone, which the young lady got out and telephone.

Q. Where did you go from there?

A. From there we carried on down Broad Street to Wolf, over Wolf to 12th, and stopped at the southwest corner of 12th and Wolf.

Q. Then what took place?

A. They had met another young lady there.

Q. Who do you mean by they?

A. Ray Schuck and Frank James.

Q. Then what took place?

A. Met the young lady and a gentleman. Getting into the car I returned up Broad Street, up Broad to Chestnut, east on Chestnut to the Adelphia Hotel, where I dismissed him there.

Q. When you speak of you dismissing him, do you mean you directed him to get out, or did he get out?

A. No, he got out.

Q. Is this 'dismissing' a phrase that is used amongst taxi men?

A. Amongst us fellows; yes, sir.

Q. Meaning that is where your fare left you?

A. That is where a party had dismissed us, right there.

Q. Then who remained in the company?

A. Ray Schuck, Frank James and two ladies.

Q. Where did you go?

A. Through the Lincoln Drive on the way to Three Tuns.

Q. Where is Three Tuns?

A. Somewhere a distance of five, perhaps six miles from where we had been in the afternoon for dinner.

Q. Is that a roadhouse?

A. Yes, sir.

Q. —or hotel, or something of that sort.

A. It is a roadhouse and a hotel.

Q. What took place after you reached Three Tuns?

A. After reaching Three Tuns it had been closed. Returning back into the city again.

Q. Anything happen on the way back?

A. Yes, sir.

Q. What?

A. I had a blow-out on the Lincoln Drive.

Q. Did either of the defendants make any reference to the blowout?

A. Yes, sir.

Q. What?

A. Frank James had paid me the sum of $10.00 for changing the shoe.

Q. Before you mean?

A. When I changed it.

Q. Yes, but had there been a puncture before?

A. Yes, sir.

Q. And he had paid you $10.00?

A. Yes, sir.

Q. What conversation took place between you and James and Schuck relative to the punctures?

A. Frank James says to Ray Schuck the next one that he would have to pay, which I passed the remark saying that the third one was down, he could pay it right away.

Q. And who paid for it?

A. Ray Schuck.

Q. How much?

A. Ten dollars.

Q. For the shoe that was on its way to be down?

A. Yes, sir.

Q. Then where did you go?

A. Back on in to the city, stopping at a hotel on 13th above Walnut. Receiving no rooms there, stopped at a hotel on Walnut above 13th. Receiving no rooms there, was directed to go to 15th and Chestnut to the Colonnade Hotel.

Q. What took place when you reached the Colonnade Hotel?

A. I was sent in to find out whether they had any rooms. Came back and told them they did.

Q. Then what took place?

A. They had went in and stayed for the evening.

Q. Who went in?

A. Ray Schuck, Frank James and the young ladies.

Q. Did you see whether they registered or not?

A. Yes, they registered.

Q. Did you leave them at the hotel?

A. Yes, sir.

Q. At about what hour?

A. Sometime also late in the evening.

Q. When did you see them again? By 'them' I mean Schuck and James?

A. I was directed to return for them the next morning at eleven o'clock, which I did.

Q. Who remained at the hotel when you left?

A. Ray Schuck, Frank James, and the young ladies.

Q. Did you return the next morning?

A. Yes, sir.

Q. Who was there?

A. Ray Schuck, Frank James, and only one young lady.

Q. Did you have any conversation with Schuck at that time, or with James in Schuck's presence, or receive any directions as to what to do?

A. Not outside of, I don't believe, of them going for another ride.

Q. Who went for a ride?

A. Ray Schuck and Frank James.

Q. Was anything said by either of them in the presence of the other as to the whereabouts of the other young lady?

A. No, sir.

Q. Who went on the ride?

A. Ray Schuck and Frank James.

Q. Where did you go?

A. Up Broad Street quite some distance, turning over in to Overbrook, turning down over 63rd Street, we stopped at a drug store at 63rd and Race, on the northeast corner.

Q. Where did you go from there?

A. From there I had came from the drug store and went to the northwest corner of 63rd and Market, where I had dismissed Ray Schuck.

Q. That is, Ray Schuck left your car there?
A. Yes, sir.
Q. About what time was that?
A. Close on to noon.
Q. Did you hear any remarks passed between them as to whether they would meet again?
A. Yes, sir.
Q. What?
A. To meet Ray Schuck at 63rd and Market the same evening at seven o'clock.
Q. Did you go to 63rd and Market that evening at seven o'clock?
A. Yes, sir.
Q. With whom?
Q. Did you see Ray Schuck there?
A. Yes, sir.
A. Frank James.
Q. Under what circumstances?
A. He had came there in another smaller car to 63rd and Market Street.
Q. Now, just describe what took place when he came in the smaller car?
A. The car drove up alongside of mine, stopping, and Frank James got out of my car, getting into his, sitting there for a few minutes, and then dismissed that car and returned into mine.
Q. Was the other car a taxi?
A. Yes, sir.
Q. Then after that car was dismissed you say they got into your car?
A. Yes, sir.
Q. Who was in your car at the time?
A. One young lady.
Q. Did Schuck have anything with him?
A. A package.

Q. What kind of package?
A. An ordinary paper package.
Q. What did he do with it?
A. Gave it to Frank James.
Q. What did James do with it?
A. Put it in the black handbag which was already in the car.
Q. Where did they go?
A. Turned the 63rd and Walnut, down Walnut to 52nd and Walnut, where Ray Schuck left the car again.
Q. Did he say where he was going?
A. No, sir.
Q. Were any arrangements made to meet him again?
A. No, sir, not to my knowledge.
Q. Then you have not seen Schuck since that?
A. No, sir.
Q. What time in the afternoon?
A. I supposed it was in the neighborhood of around four or perhaps a little after four."

7. Because the Court erred in admitting the confession of defendant made October 23rd, 1920, as testified to by Edward I. Berry, it appearing that said defendant was not properly warned that the said confession would be used against him.

8. Because the Court erred in admitting the confession of defendant made on November the 5th, 1920, as testified to by Anna E. Yoos, before there was any proof of the *corpus delicti*.

9. Because the Court erred in admitting the confession of defendant made on November the 6th, 1920, as testified to by Anna E. Yoos, before there was any proof of the *corpus delicti*.

10. Because the Court erred in admitting the confession of defendant made on November the 10th, 1920, as testified to by Edward I. Berry, before there was any proof of the *corpus delicti.*

11. Because the Court erred in refusing to permit Jonathan H. Kelsey, Prosecutor of the Pleas of Burlington County to answer the following questions:

"Q. Did the Grand Jury of Burlington County find an indictment against Frank J. James?

Q. At that time was it in your opinion as Prosecutor of the Pleas that this crime had been committed in Burlington County?

Q. Was the question whether or not a bill of indictment against Frank J. James for causing the death of David S. Paul should be found, voted upon by the Grand Jury at that session?

12. Because the Court erred in refusing to charge the jury in accordance with the 6th request submitted by counsel for defendant, as follows:

"The body of David S. Paul having been found dead in Burlington County, the presumption is that his death happened in that county and before you can find that a murder happened in Camden County, the State must prove beyond a reasonable doubt that his death occurred in Camden County and not in Burlington County."

13. Because the Court erred in refusing to charge the jury in accordance with the 12th request submitted by counsel for defendant, as follows:

"The testimony of James should be regarded with suspicion and too great reliance must not

be placed upon such testimony; it must be carefully looked into for detection of secret motives actuated by malice or the hope of favor or pardon; its credibility must be tested by the closest scrutiny."

14. Because the Court erred in refusing to charge the jury in accordance with the 13th request submitted by counsel for defendant, as follows:

"You should not convict the defendant upon the testimony of James unless it be corroborated upon such material circumstances as tend to establish the guilt of the defendant."

15. Because the Court erred in refusing to charge the jury in accordance with the 14th request submitted by counsel for defendant, as follows:

"The legal competency of accomplices as witnesses is clearly established. Indeed, it is said to be the policy of the law to invite such persons to come forward and expose undiscovered participants in their guilt. Jordaine vs. Lashbrooke, 7 T. R. 609. Yet, tainted as they are with confessed criminality, and testifying as they often do, under the strong motive of hope of favor or pardon, it is but natural to withhold from them that faith in their testimony which we accord to the upright, disinterested, and innocent. It was reasonable that courts should regard their testimony with suspicion, and look carefully into the secret motives that might actuate bad minds to draw in and victimize the innocent; and, consequently, there has grown up in the courts a settled practice quite universal, and entitled in its observance almost to the reverence of law, to advise jurors, in the

strongest cautionary terms, not to convict defendants on such testimony, unless they can find corroboration in the testimony in other and unsuspecting witnesses, upon such material circumstances as tend directly to establish the guilt of the accused. And quite frequently do the courts, in their discretion, direct juries to acquit and set aside verdicts founded on testimony of uncorroborated accomplices. But I think it may be asserted as the law that, when the jury acting upon such testimony, he being a legal witness, find a verdict of guilty, it is lawful verdict, and cannot be disturbed an error."

State vs. Hyer, 10 Vr. 601.

16. Because the Court erred in refusing to charge the jury in accordance with the 15th request submitted by counsel for defendant, as follows:

"You are cautioned not to convict the defendant upon the testimony of James alone, unless such testimony is in your judgment found to be entirely credible and worthy of belief after careful scrutiny."

17. Because the Court erred in charging the jury as follows:

"In considering the question of the weight to be given to the testimony of James and his credibility, you should remember that James has been convicted of the murder of Paul, and is by his admission an accomplice of Schuck. The testimony of an accomplice is legal evidence. It is evidence, however, that you should scrutinize with care and accept with caution, if not corroborated. There is, however, no rule of law

which requires corroboration. It is entirely within your province to determine whether or not to accept the evidence of James without corroboration. It is also your province to determine whether or not there is corroboration. You are to determine the credibility of James. It is for you to decide whether or not James is telling the truth. In considering the testimony of James, you should also take into consideration the fact that James's testimony does not shift the responsibility of Paul's murder from himself to Schuck. James's testimony is to the effect that he and Schuck had planned to mob and rob Paul, which makes James and Schuck equally guilty, if you find there was a conspiracy, of which the outcome was the killing of Paul. In this connection you have also the right to consider the situation of Schuck and to take into consideration as an important circumstance his interest in the result in testifying as does, that the meeting with Paul was accidental, and that he had no knowledge of James's intention to rob Paul, until the consummation of the act of robbery and murder by James. Schuck by his testimony seeks to place the entire responsibility for Paul's murder on James and in this way to free himself from the charge of murder for which he is being tried."

JAMES RUSSELL CARROW,
Attorney for and Counsel with Plaintiff-in-Error.

SPECIFICATIONS OF CAUSES FOR REVERSAL.

And the plaintiff-in-error also specifies the following causes relied upon by him for a reversal pursuant to the statute in such case made and provided:

1. Because the Court erred in overruling the motion of counsel for defendant to quash the array of jurors which was summoned to hear said cause, it appearing to the Court on said motion without contradiction that:

"1. The Commissioners of the juries of the County of Camden did not, at least thirty days prior to the commencement of the present December term of the Circuit Court, make two lists alphabetically arranged, of the persons liable to jury duty having to the just distribution of jury service among those persons qualified therefore in the various wards and municipalities of said county, with their occupations and places of abode and designating their respective municipalities and wards (if any), in municipalities."

"2. At the time of the selection of the said jury list there were ten thousand women, more or less, in the respective municipalities of Camden County who were duly qualified for jury service."

"3. That the Commissioners deliberately failed and refused to select any of the said women for jury service."

"4. That the petit jury list for the present term of Court was drawn from the five hundred

names which were selected by the said Commissioners as aforesaid and contained the names of no women."

"5. Said selection of the jury was and is contrary to the rights of the defendant under the Constitution of the United States and of the State of New Jersey and the statute of the said State of New Jersey in such cases made and provided."

2. Because the Court erred in admitting the testimony of William E. Albertson as particularly set forth in the second assignment of error filed in this case. All of said testimony having been admitted over the objection of counsel for defendant.

3. Because the Court erred in overruling the motion of defendant's counsel to strike out all the testimony of William E. Albertson, it being incompetent and immaterial as affecting this defendant.

4. Because the Court erred in admitting the testimony of Thomas F. Hellings as particularly set forth in the fourth assignment of error filed in this case. All of said testimony having been admitted over the objection of counsel for defendant.

5. Because the Court erred in overruling the motion of defendant's counsel to strike out the testimony of Thomas F. Hellings, it being incompetent and immaterial and not part of the *res gestae*.

6. Because the Court erred in admitting the testimony of George Jauss as particularly set forth in the sixth assignment of error filed in this case. All of said testimony having been admitted over the objection of counsel for defendant.

7. Because the Court erred in admitting the confession of defendant made October 23rd, 1920, as testified to by Edward I. Berry, it appearing that said defendant was not properly warned that the said confession would be used against him.

8. Because the Court erred in admitting the confession of defendant made on November the 5th, 1920, as testified to by Anna E. Yoos, before there was any proof of the *corpus delicti.*

9. Because the Court erred in admitting the confession of defendant made on November the 6th, 1920, as testified to by Anna E. Yoos, before there was any proof of the *corpus delicti.*

10. Because the Court erred in admitting the confession of defendant made on November the 10th, 1920, as testified to by Edward I. Berry, before there was any proof of the *corpus delicti.*

11. Because the Court erred in refusing to permit Jonathan H. Kelsey, Prosecutor of the Pleas of Burlington County to answer the following questions:

> "Q. Did the Grand Jury of Burlington County find an indictment against Frank J. James?
>
> Q. At that time was it in your opinion as Prosecutor of the Pleas that this crime had been committed in Burlington County?
>
> Q. Was the question whether or not a bill of indictment against Frank J. James for causing the death of David Paul should be found, voted upon by the Grand Jury at that session?"

12. Because the Court erred in refusing to charge the jury in accordance with the 6th request submitted by counsel for defendant, as follows:

> "The body of David S. Paul having been found dead in Burlington County, the presumption is that his death happened in that county and before you can find that murder happened in Camden County, the State must prove beyond a reasonable doubt that his death occurred in Camden County and not in Burlington County."

13. Because the Court erred in refusing to charge the jury in accordance with the 12th request submitted by counsel for defendant, as follows:

> "The testimony of James should be regarded with suspicion and too great reliance must not be placed upon such testimony; it must be carefully looked into for detection of secret motives actuated by malice or the hope of favor or pardon; its credibility must be tested by the closest scrutiny."

14. Because the Court erred in refusing to charge the jury in accordance with the 13th request submitted by counsel for defendant, as follows:

> "You should not convict the defendant upon the testimony of James unless it be corroborated upon such material circumstances as tend to establish the guilt of the defendant."

15. Because the Court erred in refusing to charge the jury in accordance with the 14th request submitted by counsel for defendant, as follows:

> "The legal competency of accomplices as witnesses is clearly established. Indeed, it is said

to be the policy of the law to invite such persons to come forward and expose undiscovered participants in their guilt. Jordaine vs. Lashbrooke, 7 T. R. 609. Yet, tainted as they are with confessed criminality and testifying as they often do, under the strong motive of hope of favor or pardon, it is but natural to withhold from them that faith in their testimony which we accord to the upright, disinterested, and innocent. It was reasonable that courts should regard their testimony with suspicion, and look carefully into the secret motive that might actuate bad minds to draw in and victimize the innocent; and, consequently, there has grown up in the courts a settled practice quite universal, and entitled in its observance almost to the reverence of law, to advise jurors, in the strongest cautionary terms, not to convict defendants on such testimony, unless they can find corroboration in the testimony of other and unsuspecting witnesses, upon such material circumstances as tend directly to establish the guilt of the accused. And quite frequently do the courts, in their discretion, direct juries to acquit and set aside verdicts founded on testimony of uncorroborated accomplices. But I think it may be asserted as the law that, when the jury acting upon such testimony, he being a legal witness, find a verdict of guilty, it is lawful verdict, and cannot be disturbed on error."

State vs. Hyer, 10 Vr. 601.

16. Because the Court erred in refusing to charge the jury in accordance with the 15th request submitted by counsel for defendant, as follows:

"You are cautioned not to convict the defendant upon the testimony of James alone, unless such testimony is in your judgment found to be entirely credible and worthy of belief after careful scrutiny."

17. Because the Court erred in denying defendant motion for a new trial because of the misconduct of the jury during the trial of this case.

18. Because the Court erred in charging the jury as follows:

"In considering the question of the weight to be given to the testimony of James and his credibility, you should remember that James has been convicted of the murder of Paul, and by his own admission is an accomplice of Schuck. The testimony of an accomplice is legal evidence. It is evidence, however, that you should scrutinize with care and accept with caution, if not corroborated. There is, however, no rule of law which requires corroboration. It is entirely within your province to determine whether or not to accept the evidence of James without corroboration. It is also your province to determine whether or not there is corroboration. You are to determine the credibility of James. It is for you to decide whether or not James is telling the truth. In considering the testimony of James, you should also take into consideration the fact that James' testimony does not shift the responsibility of Paul's murder from himself to Schuck. James' testimony is to the effect that he and Schuck had planned to meet and rob Paul, which makes James and Schuck equally guilty, if you find

there was a conspiracy, of which the outcome was the killing of Paul. In this connection you have also the right to consider the situation of Schuck and to take into consideration as an important circumstance his interest in the result in testifying as he does, that the meeting with Paul was accidental, and that he had no knowledge of James' intention to rob Paul, until the consummation of the act of robbery and murder by James. Schuck by his testimony seeks to place the entire responsibility for Paul's murder on James and in this way to free himself from the charge of murder for which he is being tried."

19. Because there was no evidence justifying a conviction of murder of the first degree.

20. Because the Court admitted illegal, irrelevant, incompetent evidence.

21. Because the Court excluded relevant and competent evidence.

22. Plaintiff-in-error suffered manifest wrong and injury because he was convicted upon the uncorroborated testimony of James, a self-confessed murderer and accomplice.

23. That the Court erred in the entire proceedings had upon the trial of the said Raymond W. Schuck, plaintiff-in-error, who suffered manifest wrong and injury in the admission of illegal evidence by the Court as well as in charging the jury and refusing to charge as requested, and in the denial of matter by the Court which was matter of dis-

cretion also the denial by the Court of the motion to quash the array of jurors and are causes for reversal.

JAMES RUSSELL CARROW,
Attorney for and of Counsel with Plaintiff-in-Error.

I hereby consent to the forms of the second, fourth and sixth specification of causes for reversal as above set forth. The reason hereof being the desire to eliminate the necessity of reprinting the extracts of testimony as set forth in the second, fourth and sixth assignments of error.

CHAS. A. WOLVERTON,
Prosecutor of Pleas.

[ENDORSED]

Service of within assignments of error and specifications of causes for reversal is hereby acknowledged this 18th day of March, 1921.

Charles A. Wolverton,
Prosecutor of the Pleas.

JOINDER IN ERROR.

NEW JERSEY COURT OF ERRORS AND APPEALS.

THE STATE, *Defendant-in-Error,* vs. RAYMOND W. SCHUCK, *Plaintiff-in-Error.*	In Error. On Indictment and Conviction for Murder in the Camden County Court of Oyer and Terminer. Joinder in Error.

And thereupon, afterwards, to wit, on the twenty-third day of March, in the year of our Lord one thousand nine hundred and twenty-one, the said State of New Jersey, by Charles A. Wolverton, Prosecutor of the Pleas of the County of Camden, comes into court and says that there is no error either in the record and proceedings aforesaid, or in giving the judgment aforesaid, and he prays that the Court here may proceed to examine as well the record and proceedings as the matters aforesaid assigned for error, and that the judgment aforesaid, in manner aforesaid given, may in all things be affirmed, etc.

CHAS. A. WOLVERTON,
Prosecutor of the Pleas of the County of Camden in the State of New Jersey.

NEW JERSEY COURT OF ERRORS AND APPEALS

THE STATE OF NEW JERSEY, *Defendant-in-Error,* and RAYMOND W. SCHUCK, *Plaintiff-in-Error.*	On Error in the Camden County Court of Oyer and Terminer. On Indictment and Conviction for Murder.

BRIEF FOR DEFENDANT-IN-ERROR

STATEMENT OF THE CASE.

The plaintiff-in-error was indicted jointly with one Frank James, charging them with the commission of the crime of murder of one David S. Paul, on the fifth day of October, nineteen hundred and twenty. For reasons which the Court deemed sufficient, it entered an order that separate trials be accorded to each of the defendants. The plaintiff-in-error was thereafter tried and convicted of murder in the first degree, without recommendation. He thereupon brings said conviction before this court for review on assignment of errors and specifications of causes for reversal and the entire record.

THE FACTS.

A portion of the pertinent facts show that David S. Paul was employed by the Broadway Trust Company in the City of Camden, as a messenger; that as part of his work he was accustomed almost daily to carry large sums of money and checks, and deliver sums of money and checks of the Broadway Trust Company to the Girard National Bank of Philadelphia; that James knew Paul; that James and Schuck were friends; that James and Schuck conspired together to entice Paul into the automobile of James while Paul, on October 5th, 1920, was on his way to Philadelphia to deliver checks and bank notes, and that they planned to rob Paul of the money which they believed he had in his possession. That they took Paul into the automobile and back of the ferry sheds at Delaware Avenue and Market Street, Camden City. While in the execution of their criminal purpose, Paul was struck by James and Schuck, blows upon the head, which caused his death. That Paul had left Broadway Trust Company on the day in question with checks amounting to $30,000.00 and cash in the form of bank notes in the amount of $40,000.00; that by pre-arrangement James and Schuck met together in the early afternoon of that day. That Schuck was driving the car. Paul was invited to take the front seat. After Paul was struck on the head, the car was driven to a desolate place known as Forest Hill Park, in the City of Camden, where the final blows were struck by Schuck and James, despite the cries and pleadings of Paul for his life. The car was then driven into a desolate portion of the pine belt in Burlington County, where

the body was taken out and crudely and cold-bloodedly thrown into the pines alongside of a stream of water. Evidences of the crime were then attempted to be destroyed and the defendants returned to Camden City. They then went to Philadelphia and spent their time in riotous living, returned later to Camden, made further attempts to destroy or to cover evidences of their crime. Schuck buried the major portion of the money in the Evergreen Cemetery on top of his son's grave.

Several days after the commission of the crime, the defendants, Schuck and James, returned to the pines, to the place where the body had been left by them. Here they attempted to dig a hole to hide the body from view, but were unable to do so, due to the condition of the ground. Thereupon the body was dragged out to the sandy road, and a rope was attached to the feet of Paul, and his body was dragged back of the automobile to a spot further down in the road, and then taken into a secluded portion of the woods again, and placed in a hole which they had dug and made for that purpose, after tying his feet with this rope into a crouched position and then they covered up the body with dirt.

After the arrest of the co-defendant James, contradictory and false statements were given by the defendant Schuck as to his whereabouts and later, after his arrest, partial admissions were made by him as to the part he took in this horrible crime.

BRIEF OF THE ARGUMENT.

The plaintiff-in-error has filed seventeen assignments of error and twenty-three causes for reversal of which he has decided to abandon numbers eleven and twelve of the assignments, and numbers eleven and twelve of the causes for reversal. The remaining will be dealt with as follows:

POINT ONE.

WOMEN ON JURY.

ASSIGNMENT OF ERROR AND CAUSE OF REVERSAL NO. 1.

"Because the Court erred in overruling the motion of counsel for defendant to quash the array of jurors which was summoned to hear said cause"—because the lists prepared by the commissioners of juries, for the December Term of Camden County Courts contained no names of women, and that thereby the plaintiff-in-error was "deprived of his constitutional right to a trial by a legal jury."

At the time of the calling of the jury for trial, the plaintiff-in-error moved to challenge the array and based his motion upon the following reasons, and upon agreement of counsel confirmed by the plaintiff-in-error (in person), the testimony of the jury commissioners given in the case of *State vs. Frank J. James* was made a part of the record (page 21), and to be used in the disposition of this motion:

"1. At the time of the selection of the jury list for the December Term, 1920, of court, there were ten thousand women, more or less, in the various municipalities of Camden County who were duly qualified for jury service.

"2. The commissioners deliberately and intentionally failed, neglected and refused to select any of the said women for jury duty.

"3. The commissioners of juries for the County of Camden did not at least thirty days prior to the commencement of the present December Term of the Circuit Court, make two lists alphabetically arranged of persons liable to jury duty having regard to the just distribution of jury service among those persons qualified therefore in the various wards and municipalities of the said county with their occupations and places of abode and designating their respective municipalities and wards (if any) in municipalities which list shall be designated respectively 'Grand Jury' and 'Petit Jury' list. The number of names on the petit jury shall at no time be less than five hundred.

"4. That the petit jury list for said term of court drawn from the five hundred names which were selected by the commissioners as aforesaid contained the names of no women.

"5. The said selection of the jury list was contrary to the rights of the defendant under the Constitution of the United States and the State of New Jersey and the statute of the said State of New Jersey in such case made and provided.

"The defendant therefore asks that the challenge to the array be sustained."

FIRST: The State contends that the testimony of the commissioners does not establish as a matter of

fact that women were "left off" the lists by them but as said by Mr. Lennon at (page 25): "I merely didn't put them on."

SECOND: Granting for purpose of argument that the commissioners did omit the names of women from the jury lists, still they were justified in that women were not qualified for jury service, because the New Jersey Statutes and Law relating to qualifications of jurors do not contemplate women (who were and have been citizens prior to their enactment and prior to passage of the Federal Suffrage Amendment) within their scope.

The statute relating to the qualifications of petit jurors is found in Vol. 3, Compiled Statutes, page 2965 (P. L. 1906, page 218), and is as follows:

"6a. Qualifications of grand and petit jurors; cause of and time for challenge.—Sec. 1. Every person summoned as a grand juror in any county in this State, and every petit juror returned for the trial of any action or suit of a civil or criminal nature, shall be *a citizen* of this State, and reside within the county from which *he* shall be taken, and above the age of twenty-one years and under the age of sixty-five years, and shall not, at any time of *his* selection by an official having, directly or indirectly, any official interest in or connection with the administration of justice. And if any person who is not so qualified shall be summoned as a grand juror or as a juror on the trial of any such action in any of the courts of this State, or if any person shall be summoned as a petit juror at any stated term of any court of this State, who has served as such at any of the three stated terms next preceding the day to which *he* may be summoned, it shall be good cause of challenge to any juror, who shall be discharged upon

such challenge being verified according to law or on *his* own oath or affirmation in support thereof; provided, that no exception to any such juror on account of his citizenship, age or any other legal disability shall be allowed, if *he* has been sworn or affirmed."

The pertinent portion of the statute (Sheriff-Chancellor Act), Supplement to Compiled Statutes 837 (P. L. 1913, page 830) relating to the manner of preparation of jury lists, is as follows:

"Sec. 5. The commissioners of juries shall, at least thirty days prior to the commencement of each term of the Circuit Court in their county, make two lists, alphabetically arranged, of *persons liable to jury duty, having regard to the just distribution of jury service among those persons qualified therefor in the various wards and municipalities of such county,* with their occupation and places of abode and designating their respective municipalities and wards (if any) in municipalities which lists shall be designated respectively "grand jury list" and "petit jury list." The number of persons named in the grand jury list shall at no time be less than three hundred, and the number of persons named on the petit jury list shall at no time be less than five hundred."

Art. 1. Sec. 7 and 8 of the New Jersey Constitutions relate to jury trials and are as follows:

Art. 1, *Sec.* 7, *New Jersey Constitutions.*

"The right of a *trial by jury* shall remain inviolate; but the legislature may authorize the trial of civil suits when the matter in dispute does not exceed fifty dollars by a jury of *six men.*"

Art. 1, *Sec.* 8, *New Jersey Constitutions.*

"In all criminal prosecutions the accused shall have the right to a speedy and public trial by an impartial jury. * * * "

It has been often held that wherever the right to a trial by jury is guaranteed by the constitution, without qualification or restriction, it must be understood as retained in all those cases which were triable by jury at common law and with all the common law incidents.

> *Cooley on Constitutional Limitations,* 5 Edition, page 390;
> *State vs. McCarthy,* 76 N. J. L. 295 (S. C. 1908) at p. 297;
> *Ex Parte Mana,* 172 Pac. Rep. 986 (Cal. 1918).

It has been held by this Court in the well-written opinion of Justice De Pue in his historical review relating to juries in the case of *State vs. Brown,* 62 N. J. L. 666 (1898), at page 676, that

> "The qualifications of jurors and the means by which they were to be selected and empaneled constituted no part of the essential features of trial by jury at common law."

And at page 678:

> "The provisions in our constitution (paragraph 8), that the accused should have a right to a speedy and public trial by an impartial jury, secured to the accused a right to a trial by an impartial jury by an express constitutional provision. The means by which an impartial jury should be obtained are not defined. In neither of the constitutional provisions on this subject is there any requirement with respect to chal-

> lenges, or to the qualifications of jurors, or the mode in which the jury shall be selected. These subjects were left in the discretion of the legislature, with no restriction or limitation, except that the accused should have the right to be tried by an impartial jury."

But it is also said therein, at page 678:

> "In this country, where the constitutions provide that the right of trial by jury shall remain confirmed as part of the law of the land, or the right of trial by jury shall remain inviolate, the words, 'trial by jury' import a trial by jury of twelve men, impartially selected, who must unanimously concur in the verdict."

There are innumerable cases and authorities which refer and establish that at the common law juries were composed of a "body of men" and that at common law women could not serve.

Bouvier's Law Dictionary (*Rawle's Revision*) at page 62:

> "JURY (Lat. Jurata, sworn). A body of men who are sworn to declare the facts of a case as they are proven from the evidence placed before them.
>
> "The term 'jury,' as used in the constitution, means twelve competent men, disinterested and impartial, not of kin nor personal dependents of either of the parties, having their homes within the jurisdictional limits of the court, drawn and selected by officers free from all bias in favor of or against either party; duly impaneled, and sworn to render a true verdict, according to the law and the evidence; 11 Nev. 39."

At page 65:

> "Women could not serve as jurors at common law, except upon a jury to try an issue under a writ *de ventre inspiciendo* (q. v.); 3 Bla. Com. 362."
>
> 3 *Blackstone Com.* 362;
> *State vs. Peterson,* 41 Ver. 504.

And in *Harland vs. Territory,* 13 Pac. Rep. 453, Wash. Territory, 1887, it was held:

"From the earliest period in the history of the common law, jurors, grand and petit, have been composed of men. The language of the *venire facias* was that they be *liber et legalis homo;* and according to Blackstone, "under the word *homo,* though a name common to both sexes, the female, however is excluded, *propter defectum sexus.*"

> Vol. 4, *Words and Phrases,* at page 3889; (1st Series);
> Vol. 2, *Words and Phrases,* at page 1285; (2nd Series);
> 24 *Cyc.* 98;
> *Ex Parte Mana,* 172 Pac. Rep. 986 (Cal. 1918).

Cooley on Constitutional Limitations (5th Edition) page 390.

"A petit, petty, or traverse jury is a body of twelve men, who are sworn to try the facts of a case, as they are presented in the evidence placed before them."

By construction of the State Constitutions trial by an impartial jury means such as existed at the common law with the reservation in the legislature to change within reasonable limitations qualifications

Insert the following after word "Gender" line 10 from top of p. 11:

That women were not qualified to serve as jurors under the statutes and jury systems of this state in existence at the time of the trial of this case, is vividly shown by the fact that the legislature of 1921 has since passed specific legislation, on this subject changing our entire jury system, the very purpose of which is to qualify them for that purpose.

Assembly Bill #223, Legislature 1921, was passed by the Assembly March first last, and by the Senate March 7th, and approved by the Governor March 10th, and is known as Chapter 41 of the Laws of 1921. It amends the act relating to trial of small causes, which formerly provided for a trial by a jury of six and twelve men and now provides for a trial by six and "twelve persons without regard to sex." In the explanation attached to said bill under the rules of the House of Assembly, is contained the following: "The purpose of this act is to provide for women serving on juries in small cause courts."

Assembly Bill #224, Legislature 1921, was passed by the Assembly March first last, and by the Senate March 7th, and approved by the Governor March 10th, and is known as Chapter 42 of the Laws of 1921. This act amends the act relating to District Courts which formerly provided for a trial by jury of six and twelve men and now provides for a trial by six and "Twelve persons who shall be summoned without regard to sex." In the explanation attached to this bill may be found the following: "The purpose of this act is to permit women to serve on juries in the District Court."

Assembly Bill #222, Legislature 1921, was passed by the Assembly March first last, and by the Senate March 7th, and approved by the Governor March 9th, and is known as Chapter 28 of the Laws of 1921. It amends the very section of the act concerning juries, now under consideration in this case and reads as follows:

> "1. Every person summoned as a grand juror in any county in this State, and every petit juror returned for the trial of any action or suit of a civil or criminal nature, shall be a citizen of this state, and reside within the county from which *he or she* shall be taken, and above the age of twenty-one years and under the age of sixty-five years, and shall not, at the time of *his or her* selection be an official having, directly or indirectly, any official interest in or connection with the administration of justice. And if any person who is not so qualified shall be summoned as a grand juror or as a juror on the trial of any such action in any of the courts of this state, or if any person shall be summoned as a petit juror at any stated term of any court of this state, who has served as such at any of the three stated terms next preceding the day to which *he or she* may be summoned, it shall be good cause of challenge to any juror, who shall be discharged upon such challenge being verified according to law or on *his or her* own oath or affirmation in support thereof; provided, that no exception to any such juror on account of *his or her* citizenship, age or any other legal disability shall be allowed, if *he or she* has been sworn or affirmed."

The explanation attached to the bill as required by the rules of the House, reads as follows:

> "The purpose of this act is to *permit* women to serve on grand and petit juries."

The jury acts in effect at the time of this trial, undubitably did not contemplate within their scope, women and when the time arrived for a charge of public opinion in that regard, the will of the people was expressed through the legislative channels as contemplated by our constitution and we respectfully submit that such a result should not be attained by a forced and strained construction of a statute which upon its face and in view of long continued and undisputed practical construction has been limited to males.

for service; which judicial constructions were declared before the present jury law was enacted (1906), if it was legislative intent to qualify women, the act of 1906 would positively and clearly so express.

In the sections of the Act of 1906, relating to qualifications of jurors hereinbefore set forth, the masculine pronouns are referred to throughout, no suggestion or reference being made therein to the feminine gender.

In *State vs. Grilli,* 179 N. Y. S. 795 (Jan. 6, 1920), where an application by mandamus to place women on jury lists was made, it was held:

> "For over 50 years, the people generally throughout the country, the courts and legislatures have proceeded upon the idea that women were not entitled as citizens to act as jurors. This long-continued and undisputed practical construction of a constitutional provision is, in effect, a direct judicial construction.
>
> "While the doctrine stated may be subject to abuse and a ready refuge against the assumption of responsibility, in this case the course of conduct of the Federal and State Governments in limiting jury service to males has been so varied, thousands upon thousands of cases both civil and criminal have been tried with only male jurors with but little objection for some many years, to adopt any other course than to follow this rule of construction would be disregarding that which is practically if not entirely conclusive."

And in *Harland vs. Territory,* 13 Pac. Rep. 453 (Wash. 1887):

"Ought this limitation to be destroyed by implication derived from a legislative act which confessedly deals with another subject? I think not. The change is so marked, and the labor and responsibility which it imposes so onerous and burdensome, and so utterly unsuited to the physical constitution of females, and that we ought not to depart from the old order without the most indubitable evidence that the legislature so intended. We are not without high authority on this precise question. The Supreme Court of Massachusetts, in a case where the statute under which a female claimed the right to assume the office of an attorney-at-law was broad enough to sustain her claim, denied her the right on the precise ground here put. Robinson's case, 131 Mass. 377. In discussing that case the Court says: 'The intention of the legislature in enacting a particular statute is not to be ascertained by interpreting the statute itself alone, and according to the mere literal meaning of its words. Every statute must be construed in connection with the whole system of which it forms a part, and in the light of the common law, and of the previous statutes upon the same subject; and the legislature is not to be lightly presumed to have intended to reverse the policy of its predecessors, or to introduce a fundamental change in long-established principles of law."

~~Also see New Jersey Senate Bill #3, 1921 Legislature purporting to qualify women.~~

(b) The adoption of the Nineteenth Amendment (Proclamation by Secretary of State, Aug. 26, 1920),

giving to women by Federal mandate the right to vote, does not *ipso facto* enlarge jury statute because the right to vote does not carry of itself the right to jury service.

State vs. Grilli, 179 N. Y. S. 795;
Ex parte Manna, 172 Pac. 986 (Cal. 1918).

And in *Harland vs. Territory,* 13 Pac. Rep. 453:

> "The legislature which passed the suffrage act, coming from the people and representing their sentiments, cannot be supposed to have intended the accomplishment of that which the people so universally disapprove, and it is fair to suppose that they would have expressly limited the effect of their act if they had foreseen the lengths to which it would be attempted to carry it. However this may be, the later act dealt entirely with the elective franchise, and, as I have heretofore shown, it could not lawfully have had in contemplation any other object."

THIRD: Even if commissioners should have placed women upon jury lists, only those whose constitutional rights are affected can complain of the violation of a constitutional right.

We take the liberty to quote extensively from the opinion of the much-quoted case of *State vs. McKinney,* 30 Pac. Rep. Sup. Ct. 293, Wyo. 1892, because of its definite bearing upon this subject, wherein it was held:

> "If the plaintiff-in-error can complain, it is because the Constitution of this State, and not the Constitution of the United States, was violated in the exclusion of the female citizens from

the jury that tried him. It was said in the case of Strauder vs. West Virginia, supra, that the very idea of a jury is that the body of men of whom it is composed are the peers or equals of the person whose rights it is selected or summoned to determine, and that they must be of the same legal status in society as that which he holds. The plaintiff-in-error asserts a right or privilege of having members of the opposite sex, as well as those of his own sex, to determine his rights, because they are unconstitutionally excluded from enjoying a right granted to them, and not because any one of his own sex, is denied the right. If women have the right, if it is a right to serve as jurors, and to 'assist in the administration of justice' thereby, it seems that no one but a woman—one of the class or sex whose rights have been invaded—can assert that right. It must be demanded by one who has been denied the equal protection of the law, and a civil or political right or privilege of which she, in common with her sex, has been deprived. The courts will not listen to an objection made to the constitutionality of an act by a party whose rights it does not affect, and who therefore has no interest in defeating it. Cooley, Const. Lim. 164. The Supreme Court of Kentucky has passed upon the question as to whether or not a white man could complain of a statutory exclusion of colored men from a grand jury that indicted him; and as the opinion is so pertinent on this point, we quote him the same in *extenso*. 'In Johnson vs. Com., we held, in pursuance of authoritative decisions of the Supreme Court of the United States, that a State law which excluded negroes from service on grand and tra-

verse juries would, if enforced, deprive colored persons of the equal protection of the law, and that such statute was therefore unconstitutional. We are now called upon to decide whether the statute deprives white persons of the equal protection of the law. In other words, whether a white person, indicted by a grand jury composed wholly of persons of the white race, can complain because negroes were excluded from the grand jury by which he was indicted. Only those who are prejudiced by an unconstitutional law can complain of it. Cooley, Const. Lim. 164. In Marshall vs. Donovan, 10 Bush. 681, Marshall, a white person, undertook to raise the question whether the exclusion of negroes from participation in the benefits of the common-school system of the State was not a violation of the State Constitution. But the Court refused to consider the question because Marshall, being one of the favored race or class, could not raise it. The act of the general assembly which provided that only white persons should serve upon juries has been held to be unconstitutional because in the opinion of the Supreme Court the exclusion of negroes from juries on account of their race and color denied them the equal protection of the law, in contravention of the fourteenth article of amendment to the Constitution of the United States. That conclusion was based on the ground that a race whose members are excluded from serving on juries is discriminated against as a race, and is not as well protected by the law as the race not so excluded. Surely, if this be true, it cannot be true that one belonging to the race not excluded, but from which the whole jury was required to be selected can have

been prejudiced by the fact that another race was excluded.' Com. vs. Wright, 79 Ky. 22. See, also, Norman vs. Boaz, 85 Ky. 557, 4 S. W. Rep. 316. The principle announced in these decisions governs the case before us. As a white man cannot urge as an infraction of his rights that the rights of another race have been assailed, so a member of one sex cannot complain because the members of another sex are denied the same rights as persons of his sex. The deprivation of the rights, privileges, or immunities, of a class, race, or sex, which are guaranteed by the organic law, can only be determined in a proceeding instituted by one of the proscribed class, race, or sex, where relief may be given directly to the oppressed one in his suit and upon his demand. *A woman must be on trial to demand the rights of her sex, or to assert that they have been unjustly or unconstitutionally discriminated against. A man cannot assert her right for her in his cause. He is not the party whose rights are affected, and he has no interest in defeating an unconstitutional or invalid law, affecting those of the opposite sex.*

"That the plaintiff-in-error, a man, cannot claim that any civil, political, or other right or privilege of his or of his sex is infringed, invaded, or annulled by a statute excluding members of the other sex from the jury which tried him, or which by its terms confines the selection of jurors trying him to those of his own sex. He has been tried by his peers. He has not been denied the equal protection of the law. He has not been discriminated against because of his sex."

In the line of cases in New Jersey and Federal cases construing the rights of colored men as a class under the 14th Amendment of the United States Constitution, a colored man was in every case on trial.

State vs. Bullock, 65 N. J. L. 557, C. of E. 1900;
State vs. Johnson, 59 N. J. L. 535, C. of E. 1896;
State vs. McCarthy, 76 N. J. L. 295;
Carter vs. Texas, 177 U. S. 442;
Rogers vs. Ala., 192 S. C. 226;
Strauder vs. West Vir., 100 U. S. 303;
Vir. vs. Rives, 100 U. S. 313;
Neal vs. Del., 103 U. S. 370.

In the case of *Strauder vs. West Virginia,* 100 U. S. 303, at page 308, it was held in construing the 14th Amendment of the United States Constitution as follows:

> "We do not say that within the limits from which it is not excluded by the amendment a state may not prescribe the qualifications of its jurors, and in so doing make discriminations. It may confine the selection to *males,* to freeholders, to citizens, to persons within certain ages, or to persons having educational qualifications. We do not believe the Fourteenth Amendment was ever intended to prohibit this. Looking at its history, it is clear it had no such purpose. Its aim was against discrimination because of race or color."

And in *Commonwealth vs. Wright,* 79 Kentucky, page 22, it was held:

"A white person indicted by a grand jury composed wholly of persons of the white race, cannot complain because negroes were excluded by statute from the jury.

"Only those who are prejudiced by an unconstitutional law can complain."

Citing: *Cooley Const. Lim.* 164.

Again in *Cooley on Constitutional Limitations* (5th Ed.) 197, it was held:

"III. Nor will a Court listen to an objection made to the constitutionality of an act by a party whose rights it does not affect, and who has therefore no interest in defeating it."

The statute is assumed to be valid, until some one complains whose rights it invades. "Prima facie, and upon the face of the act itself, nothing will generally appear to show that the act is not valid; and it is only when some person attempts to resist its operation, and calls in the aid of the judicial power to pronounce it void, as to him, his property or his rights, that the objection of unconstitutionality can be presented and sustained. Respect for the legislature, therefore, concurs with well-established principles of law in the conclusion that such an act is not void, but voidable only; and it follows, as a necessary legal inference from this position, that this ground of avoidance can be taken advantage of by those only who have a right to question the validity of the act, and not by strangers. To this extent only is it necessary to go, in order to secure and protect the rights of all persons against the unwarranted exercise of legislative power, and to this extent only, therefore, are courts of justice called on to interpose."

In *Cram vs. Chicago,* 123 N. W. 1045 (Neb. 1909), it was held (a common carrier case):

> "Until defendant is shown affirmatively to have been injured he cannot be heard to complain that the act under which the suit is brought is unconstitutional.
>
> "The rule is thus stated in Cooley's Constitutional Limitations (7th Ed.) 232: 'Nor will a Court listen to an objection made to the constitutionality of an act by a party whose rights it does not affect, and who has therefore no interest in defeating it.' In Clark vs. Kansas City, 176 U. S. 114, 20 Sup. Ct. 284, 44 L. Ed. 392, Mr. Justice McKenna cites with approval the foregoing language of Judge Cooley, and adds: 'We concur in this view, and it would be difficult to add any thing to its expression.' Kellogg vs. Currens, 111 Wis. 431, 87 N. W. 561, 56 L. R. A. 252. 'Statutes are not to be declared unconstitutional at the suit of one who is not a sufferer from their unconstitutional provisions. * * * * We cannot set aside the acts of the Legislature at the suit of one who, suffering no wrong himself, merely assumes to champion the wrongs of others.' In Wellington, et al., Petitioners, 16 Pick. (Mass.) 87, 26 Am. Dec. 631, the Court speaking by Shaw, C. J., says: 'Where an act of the Legislature is alleged to be void, on the ground that it exceeds the limits of legislative power, and thus injuriously affects private rights, it is to be deemed void only in respect to those particulars and as against those persons whose rights are thus affected.' "

And reference is also made to case of *Estabrook vs. Commission,* 177 Pac. Rep. 848 (Cal. 1918).

And *finally* upon the same point, two adjudications in our own State in *State vs. Delounzo,* 80 N. J. L. 500 (S. C. 1910), and in *Lang vs. Bayonne,* 74 N. J. L. 455 (C. of E. 1906), at page 459, it was held:

> "And it is to be observed that the judicial function of determining the validity of statutes is confined within a very narrow scope. Courts are not vested with the general supervision of legislation. They have received no authority from the people to inspect each statute, as it comes from the hands of the legislature, and declare whether or not it infringes constitutional limitations. The function of the judicial department with respect to legislation deemed unconstitutional is not exercised *in rem,* but always *in personam. Allison vs. Corker,* 38 Vroom, 596. Only such statutes as affect the rights of parties to judicial proceedings are ever subjected to the scrutiny of the courts. And these are comparatively few."

FOURTH: Even if women could have been placed upon jury lists, still no constitutional or other right of plaintiff-in-error has been violated, because there being no allegation or contention in the challenge that the commissioners acted with bias, partiality or to prejudice the plaintiff-in-error.

(a) Considered as jurors the law makes no distinction between men and women.

In *People vs. Manuel,* 182 Pac. Rep. 306 (Cal. 1919), it was held:

> "Considered as jurors, the law makes no distinction between men and women; subect to qualifications applicable alike to each, they are equally competent to act as jurors. Section 190,

> Code Civ. Prac. Hence it cannot be said the sheriff, in summoning all women, confined himself to a certain class as distinguished from another class, any more than had he summoned all men or a mixed jury composed of a greater number of either sex than the other."

(b) Accused has no right to service of particular juror.

In 16 *Ruling Case Law,* 240; Art. 57, it was held:

> "A person accused of crime has no right to the service of any particular juror on his panel. A legal and impartial jury is all that he is entitled to, it being a well-established principle that the right of challenge confers no right to select, but only a right to reject."

Also references are made—

> *State vs. Langhan,* N. J. C. of E. Nov., 1920, 112 Atl. Rep. 191;
> *People vs. Jewett,* 3 Wend. (N. Y.) 1829, 314.

(c) Under the jury act, the lists are made by the commissioners of juries (Sheriff and Layman) "of persons liable to jury duty, having regard to the just distribution of jury service among those persons qualified therefor in the various wards and municipalities of such county"—

There is no reference in this act to the manner of distribution with respect to classes, types, races, or sex, but only to be territorialy just and the constitutions by Art. 1, Sec. 8, provides only that accused shall have trial by impartial jury and that he had—

In *People vs. Manuel,* 182 Pac. Rep. 306 (Cal. 1919), it was held:

"Nor is there any claim made that her (defendant's) substantial rights were in the slightest degree prejudiced by reason of the acts of the sheriff. In the absence of such showing, mere irregularities in the action of the office in summoning persons to fill the venire would constitute no ground for the granting of a challenge to the entire panel."

Citing

Wadsworth vs. State, (Okla.) 130 Pac. 808;
People vs. Richards, (Cal.) 82 Pac. 691.

"* * * There is nothing in the record which tends to show the slightest bias on the part of the officer in summoning the jurors; on the contrary, it appears that he acted with entire impartiality and without prejudice to the substantial rights of the defendant."

In conclusion upon this subject, even if error was committed by the jury commissioners, the defendant suffered no manifest injury or the loss of any substantial right because he was guaranteed and did have a trial by a fair and impartial jury.

State vs. Rosenthal, 85 N. J. L. 564 (S. C. 1914), Affd. 86 N. J. L. 705.

POINT TWO.

ADMISSION OF EVIDENCE.

ASSIGNMENTS OF ERROR 2, 3, 4, 5, 6 and
CAUSES FOR REVERSAL 2, 3, 4, 5, 6.

These assignments and causes relate to the admissions of testimony.

Numbers two and three refer to the testimony of William E. Albertson found in the record at page 105. The basis of the objection set forth in the brief for plaintiff-in-error is that at the time of the circumstances related the plaintiff-in-error was not present. The transactions referred to relate to that of October 6th and October 13th. The car of the co-defendant, James, was taken the day after the crime for the purpose of being repaired, and having restored that which had been destroyed, or thrown away which had been incriminating, such as floor boards, covering and tape on door; the car which was at the garage of Albertson, was obtained by James on October 13th. The evidence submitted was solely and entirely as to the condition of the car in which the murder had been committed. The parts destroyed and missing had been removed to destroy evidence of the crime. All of this was admitted in the statements of the defendant and by his testimony at the time. No testimony was introduced as to what was said by James to Albertson but confined solely to the condition of the car. It is submitted that this was surely part of the *res gestae* and admissible even though defendant Schuck was not present at the time witness observed the car.

21 *Cyc.* 937.

And in 12 *Cyc.*, at page 435:

> "The general rule is that when two or more persons conspire to commit any offense and the conspiracy is proved, everything said, done, or written by one of them is admissible against the others if it was said, done or written during the existence of the conspiracy and in the execution or furtherance of the common purpose, but not otherwise."

Assignments numbers 4, 5 and 6, and causes 4, 5 and 6, relate to admission of testimony of taxi drivers Hellings and Jauss found in record at pages 122 and 135, respectively. Their testimony relates to whereabouts, conduct of defendant in company with James after commission of the crime and is objected to as not being a part of the *res gestae.* Surely this contention has no foundation in law.

Reference is made to citations hereinbefore set forth in 21 *Cyc.* 937, where it was held:

> "Circumstances occurring subsequent to the homicide may be admissible when they form part of the *res gestae* and throw light upon the transaction or are of such a character as to point to defendant as the person through whose agency deceased came to his death. Evidence is admissible of the demeanor, conduct, appearancy, and acts of the defendant shortly after the homicide, such as acts evidencing a desire to elude discovery, or to conceal the crime or the evidence of it, acts showing malice toward accused, or a motive for taking life, indifference to his fate, or acts of communication with a

person known to have been concerned in the crime. The acts of an accomplice of defendant in the homicide may be shown.

"Where it is claimed that deceased was robbed as well as murdered, evidence is admissible to show that after the homicide defendant or his confederate was in possession of property of the deceased."

And in 16 *Corpus Juris,* 549, it is held:

"The whereabouts of the accused and his comings and goings subsequent to the commission of the offense and up to the time of his arrest are admissible.

"It is also relevant to show that accused or an accomplice had money or other property in his possession which was the fruit of the crime."

Evidence of expenditures in the line of riotous living is admissible *State vs. Magers,* 58 Pac. 892 (Oregon 1899), at page 896:

"The state introduced evidence tending to show that prior to the homicide the defendant had little or no money; that on the next day thereafter he went to Portland with two girls, with whom he and one Frank Chalifou had been keeping company; that defendant and the girls stopped at the same hotel, defendant paying the board and lodging for all; that after a few days he visited Marion County, but returned the next day, in company with Chalifou; that Chalifou and he stopped at the same hotel, again where the girls were staying, and at various times during their stay in Portland they all attended places of amusement, and that defen-

dant paid the expenses of admission. Chalifou, being called as witness, was permitted to testify, over the objection of defendant, that they (the defendant, and two girls and himself) went out to Exhibition Hall, or some place out there, stayed until 12 o'clock at night, stopped at another place in town and got a couple of drinks, and then went back to the hotel at 1 o'clock. It is now argued that this evidence was prejudicial to the defendant; but it cannot be so considered, as it was cumulative, merely of what had been previously introduced in the attempt of the prosecution to trace the whereabouts of the defendant, and show his lavish and reckless expenditure of money."

And in *People vs. O'Neil,* 19 N. E. 796:

> "Evidence was admissible of defendant's drinking liquor subsequent to the fire, as bearing upon the question of guilt, in tending to show what was his conduct and demeanor when engaged in matters connected with the fire, and in the course and disposition of which he was principally interested and a prominent actor."

All of the evidence given by Hellings and Jauss was reiterated without objection by the accomplice James.

Furthermore the State was entitled to show that the explanations of the whereabouts of the defendant given by him on October 23rd to representatives of the Prosecutor's office were false by the introduction of this line of evidence.

POINT THREE.

THE CORPUS DELICTI—CONFESSIONS.

ASSIGNMENTS OF ERROR 7, 8, 9, 10 and
CAUSES OF REVERSAL 7, 8, 9, 10.

A.

These causes and assignments relate to the admissions of confessions or statements by the defendant.

Assignment and cause number 7 are based upon the admission of what plaintiff-in-error terms a confession made on October 23, 1920, upon the basis of lack of proper warning. As a matter of fact this statement was a denial of guilt or interest in the crime rather than a confession and was made by the accused after the arrest of his co-defendant James, but while the accused was at liberty and before any formal charge existed against him. He came voluntarily to the office where it was taken, and was informed of the identity of the parties present and was informed that any statement he might make must be voluntary upon his part. While no warning was necessary under the circumstances, yet, a warning was given that fully informed defendant of his rights and establishes the statement as voluntary in character (page 200 and 201).

State vs. Hernia, 68 N. J. L. 299, C. of E. 1902.

Further the finding of a trial Court that a confession was voluntarily made will not be reversed if there be any legal evidence to support it.

State vs. Kwiatkowski, 83 N. J. L. 650, page 658;
State vs. Monich, 45 Vr. 522, at page 528.

B.

Assignments and causes under numbers 8, 9, 10 refer to the admission of verbal statements made by accused termed confessions in which plaintiff-in-error made certain admissions respecting the crime, a portion of which were truthful and a portion of which were false. The Court to give the defendant every possible protection treated them as confessions and required proof as to their voluntary character as a condition precedent to their admission. Upon their offer, objection was made that the *corpus delicti* had not been proven and counsel for the plaintiff used as his reasons (p. 252), the same argument advanced by counsel for Frank James, in that trial upon offer of a confession of said defendant therein (James' case, p. 206). In admitting these statements the Court called attention to the fact (p. 281) that the grounds on which counsel objected did not apply for the reason that the testimony of Ellis Parker (p. 272) had fixed Camden County as the locality in which the blows were struck.

FIRST: Furthermore, these statements were not confessions for in all of them, the plaintiff-in-error denied he had conspired with James to rob Paul, that he met James by pre-arrangement, that he

struck Paul and averred that his acts were dominated by James. Therefore, they were not subject to the same rules of evidence as relate to a confession with respect to the *corpus delicti.*

SECOND: Treating them as confessions for purpose of argument. The foundation of plaintiff-in-error's argument is that rule set forth in *State vs. Guild,* 10 N. J. L. 163, wherein it was held that "prisoner may be convicted on his own confession when proven by legal testimony, although it is uncorroborated by any other evidence, provided the *corpus delicti* be proved."

And in *State vs. Kwiatkowski,* 83 N. J. L. 650 (C. of E. 1912), where it was held:

> "The only limitations upon the use as evidence against him of a prisoner's confession of murder, voluntarily made, is the want of proof of the *corpus delicti.*"

The argument advanced in the James' case was that independent of the confession of James, there was no proof that a crime had been committed in Camden County and that therefore the *corpus delicti* was not proven. There was ample abundant, independent positive and conclusive proof that the body found was that of David S. Paul and that he met his death through criminal agency. Schuck, p. 253. Paul left the bank on October 5th, about half-past one in the afternoon, in all the vigor of good health. He was bound on a mission having in his possession a vast sum of money. He was last seen in the City of Camden on the above-mentioned afternoon. His body was found with his head crushed in; his legs tied together, doubled up and buried in a small grave in a secluded and unfrequented wood-

land. Further in the present case, the co-defendant James was called as a witness (p. 354), for the State and his testimony told in detail the horrors of the crime and established the striking of blows by himself and Schuck in Camden County which caused the death of Paul.

(a) No reference in any of the very many cases read by the State, relate or indicate that jurisdiction of trial Court has any relation to the *corpus delicti.* The several states may be legislative enactment define the manner in which trial Court may obtain jurisdiction and which before the close of State's case must be established, but not necessarily independently of or before the introduction of statements in the nature of confessions by the defendant in State's case.

(b) By overwhelming weight of decisions throughout the country and legal definitions of "*corpus delicti,*" the term applies to the "body of the crime," which involves only two elements:

(1) Death and identity of individual.

(2) Through criminal agency.

The New Jersey cases upon this subject may be found as follows:

State vs. Guild, 10 N. J. L. 163;
State vs. Banuik, 84 N. J. L. 640, at p. 646, C. of E. 1906;
State vs. Kwiatkowski, 83 N. J. L. 650 (C. of E. 1912);

In the last above quoted New Jersey (Kwiatkowski) case, it was held by the Court:

> "The only limitation upon the use as evidence against him of a prisoner's confession of murder, voluntarily made, is the want of proof of the *corpus delicti*. If death, through criminal agency, be proved, and a man confesses to having caused that death, he may be *convicted* of murder on his confession."

Note: Briefs used in Banuik may be found in Vol. 383 Court of Errors decisions of N. J. State **Library.**

Other legal authorities substantiating the State's conclusion may be found in:

13 *R. C. L.*, 736;
16 *Corpus Juris*, 771 Art. 1578;
21 *Cyc.* 996.

Note—to 68 L. R. A. at page 79.

And in *State vs. Knapp*, 71 N. E. Rep. 705 (S. C. Ohio 1904), it was held:

Corpus delicti means the substance of the crime, and the substance of the crime, charged in this indictment is that Hannah G. Knapp was murdered. The proof of her death is direct and positive, so that, if the circumstances shown are of such force, when taken together, as to leave no room for reasonable doubt that she was murdered, then any extra judicial confession by the prisoner, if otherwise competent, may be considered for the purpose of establishing his connection with the crime.

Also reference is respectfully made to

People vs. Moran, 77 Pac. Rep. 777 (Cal. 1904);

State vs. Gebbia, 47 So. 32 (Louisiana 1903);
State vs. Carter, 49 S. W. 74 (Texas 1899);
People vs. Hoch, 76 N. E. 356 (Ill. 1905);
Com. vs. Gray, 101 Pa. 380;
State vs. Henderson, 85 S. W. 576 (Missouri 1905);
State vs. Barrington, 95 S. W. 235 (Missouri 1906), at page 264;
People vs. Campbell, 42 N. E. 123 (Ill. 1895);
Ryan vs. State, 14 So. 868 (Ala. 1894);
State vs. Gillis, 58 S. E. 487 (So. Car. 1906);
Com. vs. Farr, 4 Allen 315 (Mass. 1862);
Cryderman vs. State, 161 N. W. 1045 (Neb. 1917);
Choate vs. State, 160 Pa. Rep. 34 (Okla. 1916);
Clark vs. State, 210 S. W. 544 (Texas 1919);
People vs. Besold, 97 Pa. 871 (Cal. 1908), at page 873.

(c) The confessions of the plaintiff-in-error were substantiated and corroborated to the extent to which they were truthful by his accomplice even to jurisdiction which in itself is sufficient, even accepting plaintiff-in-error's definition of *corpus delicti* without regard to the proofs *aliunde* presented by the State.

13 *R. C. L.* 737;
16 *Corpus Juris,* 690;
State vs. Anderson, 31 S. W. 673 (Texas 1895).

(d) A mere variation in the order of proof is not prejudicial to the defendant.

People vs. Besold, 97 Pac. Rep. 871 (Cal. 1918);
State vs. Gebbia, 47 So. Rep. (Louisiana) 1908, page 38.

And in *State vs. Ashby,* 139 S. W. 872 (Tenn. 1911), it was held:

> "Undoubtedly some evidence of the *corpus delicti* should precede the introduction of the confessions of the prisoner, to the extent at least of showing, *prima facie* (1 Elliott on Ev. Par. 292), that a crime has been committed, that is, in homicide cases, the death of a human being and criminal agency in producing that death. But, if the wrong order be followed in the trial Court, it is not reversible error."

POINT FOUR.

EXCEPTION AND REFUSAL TO CHARGE.

ASSIGNMENTS OF ERROR 13, 14, 15, 16, 17.
CAUSES FOR REVERSAL 13, 14, 15, 16, 18.

These causes and assignments relate to refusal to charge and exceptions to the charge of the Court.

The subject-matter of the same relate to the testimony of the accomplice of the accused, Frank J. James.

It is respectfully submitted that the charge of the Court in this and every respect is a most comprehensive clear and fair review of the case and a

charge in which the rights and protection to be given to a defendant were cautiously and legally guarded.

The first four assignments above referred to relate to refusal to charge found in requests 12, 13, 14, 15, and assignment 17 and cause 18 relate to the manner of charging upon this point found in page 776 and 849 of record. It is to be noticed in passing that in addition thereto the Court at the beginning and conclusion of the charge cautioned the jury as to their duty and province to determine the weight and credibility to be given to the witnesses.

It has been expressly held by this Court in *State vs. Lieberman,* 82 N. J. L. 748 (1912) in a *per curiam* opinion affirming the Supreme Court, 80 N. J. L. 506 and adopting its opinion that "a jury may *convict* a prisoner upon the testimony of an accomplice alone, if in its judgment, such testimony is entirely credible and worthy of belief."

Reference upon this subject is also respectfully made to

> *State vs. Hyer,* 39 N. J. L. 598 (S. C. 1877);
> *State vs. Bossone,* 95 Atl. 969 (S. C. 1915);
> *Newman N. J. Criminal Law,* page 411.

The Court further in line with the practice, as a matter of discretion and not of law, however did carefully caution the jury with respect to the manner of dealing with the evidence of an accomplice.

The law having been fully and correctly charged upon this subject there is neither error nor injury to the plaintiff-in-error in respect thereto.

In *State vs. Lieberman,* 80 N. J. L. 507, it was held:

> "The defendant is not entitled as a matter of right to have the very language of a legal

request submitted by him charged to the jury. All that he may insist upon is that the Court shall correctly instruct the jury with relation to the subject-matter embraced in the request."

POINT FIVE.

NEW TRIAL.

CAUSE FOR REVERSAL 17.

This relates to the refusal to grant motion for a new trial because of alleged misconduct of the jury.

FIRST: This reason is based upon a cause for reversal because it is not a proper subject for an assignment of error.

> *Warren vs. State,* 56 N. J. L. 686 at page 694.

It is also respectfully submitted that it is not a proper subject for review on a cause for reversal. The refusal to grant a new trial is a matter of discretion in the trial Judge after the completion of the trial and not contemplated within the terms of Sec. 136, of the Criminal Procedure Act.

In *State vs. Van Staven,* 67 N. J. L. 235, it was held:

> "The denial by a Court of Oyer and Terminer of a new trial in a criminal case is not reviewable under the provisions of Section 136 of the Criminal Procedure Act of 1898.

Reference is also made to

State vs. Pisaniello, 96 Atl. 89;
State vs. Johnson, 106 Atl. 467.

In the case of *State vs. Ungar*, 111 Atl. 37, where a similar subject was disposed of, the application reviewed was not for a new trial after verdict but for a mistrial before verdict.

SECOND: Even if reviewable, the State respectfully contends that the plaintiff-in-error has not sustained manifest wrong and injury as described in the statute, as the conduct set forth on the application as appears by the affidavits (p. 797 of record), do not show that he did not have a trial by a fair and impartial jury unaffected and unimpaired by any outside influence whatsoever.

The trial of the case extended over a week-end and the Court directed the sheriff to give the jurors exercise and more fresh air. They had sat for a continuous week and one of the jurors had ever been sickly, having required the attention of a physician, whose attendance directed by, was in the presence of the Court. The jury were taken for an automobile ride in four enclosed cars, a sworn court attendant being with each set of three jurors. All cars proceeded together. One stop was collectively made to get a drink of water and a second near the home of one of the jurors, word was sent to the wife of one juror about her health. The juror did not talk to his wife, the court attendant conversed with her. No outsider talked about the case to any of the jurors. The drivers of the cars were no more in contact with them than waiters in a restaurant or spectators in a court room.

The leading case in New Jersey upon this subject seems to be *State vs. Cucuel*, 31 N. J. L. 249, which constrains a historical review of the history of sequestering juries in capital cases.

It was held that:

> "When criminal trials are extended through a number of days, it is no deflection of the original rule, to place the jury, in case of adjournment, in charge of a sworn officer of the Court, with instructions not to permit any communication between the jury and other persons, with regard to the case on trial. As a consequence, it is competent for the Court to authorize the jury or any of them to visit their homes in the company of one of the sworn officers, or to walk out for exercise.
>
> A verdict will not be set aside on account of the misconduct or irregularity of a jury even in a capital case, unless it be such as might affect their impartiality or disqualify them from the proper exercise of their functions.
>
> That one of the jurors on a visit home with the officer went into the house for short time, while the officer remained outside at the door, will not vitiate the verdict, it being made to appear by the State, that nothing occurred which could raise a suspicion of the juror receiving any bias ab extra."

And at page 262:

> "In our anxiety to protect the prisoner, we are not to abandon the sure footing of common sense."

The mere passing on the highway of Evergreen Cemetery where it was admittedly established in the

trial, the stolen money was hidden and the banking house of Broadway Trust Company cannot be said to be injurious to the defendant.

State vs. Warner, 56 N. J. L. 686 (C. of E. 1894).

The facts in the case of *State vs. Ungar*, cited by plaintiff-in-error, 111 Atl. Rep. 37, are extremely different. In that case a representative of the Prosecutor's offices actually associated and mingled with the jury and assumed custody with the sworn officers and thereby invaded the "Seclusion thereof." No such allegations or facts exist in the present case.

POINT SIX.

Causes for reversal numbers 19 to 23 are not briefed and are general in nature and most of them have been referred to hereinbefore at length.

Cause number 19 is that there was no evidence justifying a conviction of murder in the first degree. This hardly requires an answer. There was abundant proof before the jury that the homicide was committed while the accused was engaged in perpetrating a robbery.

State vs. Palmieri, 93 N. J. L. 195;
State vs. Palerma, 87 N. J. L. 717.

Cause number 20. "Because the Court admitted illegal, irrelevant, incompetent evidence," and

Cause number 21. "Because the Court excluded relevant and competent evidence."

This case was carefully tried by the trial Court with the greatest caution to give to the accused

every right to which he was entitled and only proper and legal evidence was submitted and none rejected that was offered by the accused which should have been admitted.

Cause number 22.

> "Plaintiff-in-error suffered manifest wrong and injury because he was convicted upon the uncorroborated testimony of James, a self-confessed murder and accomplice."

FIRST: As hereinbefore discussed, it has been repeatedly held and by this Court that such a conviction is legal, but

SECOND: There was abundant corroboration and much independent proof of the crime other than testimony of James, and even the testimony of the accused, therefore this exception is not correct in matter of fact.

See charge of Court record, page 774.

Cause number 23.

This is a general exception to the entire proceedings and the State alleges the contentions therein set forth are not justified for reasons hereinbefore argued at length nor from an examination of the entire record.

CONCLUSION.

In the consideration of this case, the Court will no doubt be impressed with the fact that the crime charged herein was a shocking and revolting one. The perpetrators were diligently pursued, and they have had fair and impartial trials and a just verdict was rendered fully warranted by the evidence.

It is respectfully submitted that from an examination of the entire record, no errors have been committed which were prejudicial to the interest of the accused and that he has suffered no manifest wrong or injury and that the judgment of conviction should be affirmed.

Respectfully submitted,

CHARLES A. WOLVERTON,
Prosecutor of the Pleas of Camden County.
ALBERT E. BURLING,
Assistant Prosecutor.
Attorneys for and of Counsel with the Defendant-in-Error, The State of New Jersey.

NEW JERSEY COURT OF ERRORS AND APPEALS

THE STATE OF NEW JERSEY,
Defendant-in-Error,
vs.
RAYMOND W. SCHUCK,
Plaintiff-in-Error.

On Error.

BRIEF OF JAMES RUSSELL CARROW, ATTORNEY FOR AND OF COUNSEL WITH PLAINTIFF-IN-ERROR.

STATEMENT OF THE CASE.

On October fifth, 1920, about one-thirty in the afternoon, David S. Paul, a bank runner for the Broadway Trust Company of Camden, while enroute to Philadelphia for his bank with $40,000 in his possession was murdered and robbed. When this occurred he was in an automobile owned by Frank J. James, an acquaintance. The automobile was being driven by Raymond W. Schuck. Schuck testified that James invited Paul to get into an automobile which was enclosed with curtains to be taken to the ferry. The blows which killed Paul, James began to strike at the ferry. The automobile was then driven from this point through the streets of Camden to the outskirts of the city. Blows were repeatedly struck on the way by James with a blunt in-

strument and James afterwards fired two shots at Paul's body as it lay on the floor of said car. Paul died as a result of physical violence and his body was buried by both James and Schuck at or near Irick's Causeway in Burlington County where it was discovered by gunners on the sixteenth day of October, 1920.

The theory of the State was that James and Schuck were both engaged in a conspiracy to rob Paul at the time of the murder. This theory was supported by James who testified for the State against Schuck. James also said Schuck struck Paul two blows with the same blunt instrument which he, James, used on Paul. Schuck denied that he struck Paul any blow or blows or that he had any intention himself of robbing or killing Paul. He also denied that he was engaged in any conspiracy to rob, injure or kill Paul and insisted that all the blows were struck by James. Schuck claimed that James did the robbing after Paul was killed, but Schuck hid the money except the part thereof used by them, and that he was innocent of any knowledge of James' intention to rob or kill Paul; ~~this~~ his, Schuck's, acts in driving the automobile under the circumstances and in concealing the crime and in hiding the money and in using part of the money were caused as the result of serious threats upon his life by James. Schuck made four statements to the State officers before the trial, page 200 to 358. These statements were used by the State at the trial but it is insisted that they were consistent with the theory of Schuck's defense; James and Schuck were both indicted for murder. James was tried first and convicted of murder of the first degree, December 20th, 1920.

Plaintiff-in-error, who will hereafter be called plaintiff, was tried for murder at the December

Term of the Court of Oyer and Terminer of Camden County and convicted of murder in the first degree on the 22nd day of February, 1921. On February the 25th, 1921, he was sentenced to death. A writ of error was duly issued out of this court after the filing of a certificate of his Honor, the Chancellor, denying a writ of error out of the Supreme Court. The entire record and proceedings had upon the trial has been properly returned and is now before this Honorable Court.

There are seventeen assignments of error and twenty-three specified causes of reversal. The assignments of error and specified causes of reversal are the same from one to sixteen inclusive. All the assignments of error and specified causes of reversal are relied upon for reversal excepting those expressly abandoned.

The Court erred in denying a motion to quash the array of jurors because no women were placed on the jury lists by the jury commissioners; in admitting illegal evidence; in refusing to charge as requested, and charging erroneously, and also in denying plaintiff's motion for a new trial.

ARGUMENT.

POINT I.

ASSIGNMENT OF ERROR 1 AND CAUSE OF REVERSAL 1.

There were no women on the jury lists, therefore plaintiff moved to quash the array of the panel of jurors, page 10 of the printed book. Plaintiff contends that he suffered manifest wrong and injury in

the denial of said motion to quash because he was deprived of his constitutional right to a trial by a legal jury.

The female portion of the citizenry or voting population was discriminated against by the jury commissioners of Camden County in providing jurors for the December Term of said court, although the Nineteenth Amendment to the Constitution of the United States went into effect August 26th, 1920.

Amendment 19 of the Constitution of the United States:

> "The right of citizens to vote shall not be denied or abridged by the United States or by any State on account of sex."
>
> "Congress shall have power to enforce this article by appropriate legislation."

Jurors' qualifications.—In New Jersey, "shall be a citizen of this State and reside within the county from which he shall be taken and above the age of 21 years and under the age of 65 years, etc."

Compiled Statute, 2965, Sec. 6a.

This statute it seems to me should be interpreted in the light of the foregoing Constitutional Amendment and made to include women as in ordinary interpretation.

I respectfully contend that your Honor should take judicial notice of the fact that practically one-half of the voting population at the last general election was female. This, I think, it is reasonable to assume is within the purview of judicial knowledge; but if it be a matter of proof, then there was undisputed proof before the Court below showing that a considerable portion of the voting population was female, pages 24 to 30 of printed book.

Now I contend that the jury lists must be selected from the entire citizenry or voting population of the county. This it seems to me is the manifest intent of the Jury Reform Law of 1913.

An examination of this statute, P. L. 1913, p. 828, Section 5, will show that the duty imposed upon the jury commissioners is mandatory; they are required to "make two lists, alphabetically arranged, of persons liable to jury duty, having regard to the just distribution of jury service among those persons qualified therefor in the various wards and municipalities of such county."

Is there any uncertainty about the language of the statute? No, it is perfectly clear and susceptible of no other interpretation than that which it bears upon its face, namely, that the lists of jurors must be taken from all citizens liable to jury duty and not from a part thereof. If this be not so then the jury commissioners are empowered to discriminate against any class of citizens, and if they do that, how is it possible for them to select the jurors "having regard to the just distribution of jury service among those persons qualified therefor in the various wards and municipalities of such county."

The present jury law was passed at a special session of the Legislature, May 6th, 1913, and according to the Governor's proclamation, P. L. 1913, page 897, which your Honors will take judicial notice of, this special session of the Legislature was called among other things, to consider reform in the method of drawing grand and petit jurors. The old law was not deemed satisfactory. The sheriff had too much discretionary power. He was directed "to select under the supervision of the Court of Common Pleas from among the residents of the county qualified to serve as jurors, etc.," Compiled Statutes, p. 2967,

Sec. 13a, but the law of 1913 laid down a mandate for the purpose of destroying any discretionary power on the part of the jury commissioners except as specified in said act.

If this be not so what use was there in changing the law? I respectfully contend that it is of vital interest to the people of the State that trial by jury in the strictest legal sense be preserved. It cannot be said that plaintiff suffered no wrong—the answer to this is that a citizen on trial for his life suffers a manifest wrong if he has not had a trial by a jury legally constituted. The twelve men who decided plaintiff's fate were not a jury in legal contemplation. The Constitution contemplates none other than a strictly legal jury. To say that the jury commissioners were actuated by chivalrous motives in excluding women is no answer to a manifest dereliction of a public duty. The discimination is there just the same. What I have thus far said relates to the statute law of the State, but the Supreme Court of the United States and this court have inveighed against discriminations respecting any class qualified for jury service.

Carter vs. Texas, 177 W. S., p. 442;
Bullock vs. State, 65 N. J. L. 557.

POINT II.

ASSIGNMENTS OF ERROR 2, 3, 4, 5, 6 AND CAUSES OF REVERSALS 2, 3, 4, 5, 6.

The testimony of William E. Albertson to the effect that Frank James visited his garage about 9.30 in the evening of October 6th, 1920, in a Ford touring car; that the windshield was broken, the

cardboard removed from the left rear door, etc.; that the left rear door was taken from the said car by him and identified Exhibit S20 as the said door; that said car was left at his garage for repairs from October 6th, to October 13th, when James called for it (pages 105 to 114 of the printed book); was manifestly illegal evidence because it related to circumstances concerning Frank James when plaintiff was not present. Whatever James said or did after the commission of the crime could only bind himself and cannot be used as evidence against Schuck. In *State vs. Hubert,* 105 Atl., page 797, Justice Kalisch clearly pointed out that where a conspiracy is charged, "the unlawful agreement being at an end, each of the conspirators ceases to be the agent of the others and therefore can only bind himself by his acts or declarations, notwithstanding the fact that such acts and declarations relate to the concealment of the crime of the completed conspiracy."

The testimony of Thomas F. Hellings and George Jauss, pages 123 to 148, in the printed book, as to the conduct of James and Schuck in Philadelphia after the murder was committed, in drinking, riding around in taxicabs and spending money lavishly on women, was likewise illegal evidence, because it related to circumstances which were no part of the *res gestae.* All of said illegal evidence was introduced for the purpose of prejudicing the jury against the defendant and it cannot be said it did no harm for the obvious answer to this is that it was harmful or it would not have been introduced. All evidence introduced by the State in a capital case is harmful; that is exactly why it is put in the case.

POINT III.

ASSIGNMENTS OF ERROR 7, 8, 9, 10 and CAUSES OF REVERSAL 7, 8, 9, 10.

It is contended that the *corpus delicti* should have been proved before the State had any right to put plaintiff's confessions in evidence. Until the introduction of said confessions of defendant as set forth in printed book on pages 200 to 354, all the State had proved was that David S. Paul was last seen in Camden about 1.30 in the afternoon of October 5th, 1920, and that his body was discovered in Burlington County on October 16th, 1920. And some further testimony to the effect that death was due to a series of blows delivered upon his head with a blunt instrument. No evidence was offered to prove where he was killed or by whom. Certainly there was no evidence that a crime had been committed in Camden County. The confessions of defendant were introduced in evidence to prove these essential facts and it is respectfully submitted that it was incumbent upon the State to prove the *corpus delicti* before the said confessions could be admitted as evidence.

POINT IV.

ASSIGNMENTS OF ERROR 11, 12 and CAUSES OF REVERSAL 11, 12, ARE ABANDONED.

POINT V.

ASSIGNMENTS OF ERROR 13, 14, 15, 16, 17 and CAUSES OF REVERSAL 13, 14, 15, 16, 18.

The learned trial Court erred in refusing the following requests to charge:

No. 12, page 795, in the printed book:

> "The testimony of James should be regarded with suspicion and too great reliance must not be placed upon such testimony; it must be carefully looked into for detection of secret motives actuated by malice or the hope of favor or pardon; its credibility must be tested by the closest scrutiny."

No. 13, page 796, in the printed book:

> "13. You should not convict the defendant upon the testimony of James unless it be corroborated upon such material circumstances as tend to establish the guilt of the defendant."

No. 14, page 796, in the printed book:

> "14. The legal competency of accomplices as witnesses is clearly established. Indeed, it is said to be the policy of the law to invite such persons to come forward and expose undiscovered participants in their guilt. Jordaine vs. Lashbrooke, 7 T. R. 609. Yet, tainted as they are with confessed criminality, and testifying, as they often do, under the strong motive of hope of favor or pardon, it is but natural to withhold from them that faith in their testimony which we accord to the upright, disinterested, and innocent. It was reasonable that courts should

regard their testimony with suspicion, and look carefully into the secret motives that might actuate bad minds to draw in and victimize the innocent; and, consequently, there has grown up in the courts a settled practice quite universal, and entitled in its observance almost to the reverence of law, to advise jurors, in the strongest cautionary terms not to convict defendants on such testimony, unless they can find corroboration in the testimony in other and unsuspected witnesses, upon such material circumstances as tend directly to establish the guilt of the accused. And quite frequently do the courts, in their discretion, direct juries to acquit and set aside verdicts founded on testimony of uncorroborated accomplices. But I think it may be asserted as the law that, when the jury acting upon such testimony, he being a legal witness, find a verdict of guilty, it is a lawful verdict, and cannot be disturbed on error."

State vs. Hyer, 10 Vr. 601.

No. 15, page 797, in the printed book:

"15. You are cautioned not to convict the defendant upon the testimony of James alone, unless such testimony is in your judgment found to be entirely credible and worthy of belief after careful scrutiny."

And the learned trial Court also erred in charging as he did as follows, pages 776 to 777, in the printed book:

"In considering the question of the weight to be given to the testimony of James and his credibility, you should remember that James has been convicted of the murder of Paul, and

is by his admission an accomplice of Schuck. The testimony of an accomplice is legal evidence. It is evidence, however, that you should scrutinize with care and accept with caution, if not corroborated. There is, however, no rule of law which requires corroboration. It is entirely within your province to determine whether or not to accept the evidence of James without corroboration. It is also your province to determine whether or not there is corroboration. You are to determine the credibility of James. It is for you to decide whether or not James is telling the truth. In considering the testimony of James, you should also take into consideration the fact that James' testimony does not shift the responsibility of Paul's murder from himself to Schuck. James' testimony is to the effect that he and Schuck had planned to meet Paul and to rob him, which makes James and Schuck equally guilty, if you find there was a conspiracy, of which the outcome was the killing of Paul. In this connection you have also the right to consider the situation of Schuck and to take into consideration as an important circumstance his interest in the result in testifying as he does, that the meeting with Paul was accidental, and that he had no knowledge of James' intention to rob Paul, until the consummation of the act of robbery and murder by James. Schuck by his testimony seeks to place the entire responsibility for Paul's murder on James and in this way to free himself from the charge of murder for which he is being tried."

"I contend that the jury should have been advised, as Mr. Justice Knapp said in State vs.

Hyer, 10 Vr. 598, 'in the strongest cautionary terms,' not to convict the defendant without corroboration upon such material circumstances as would tend directly to establish the guilt of the defendant. A careful inspection of the evidence will not disclose the kind of corroboration which the law contemplates.

"Even if defendant's testimony be totally disregarded the evidence of the State without James' testimony shows a situation consistent with innocence of first degree murder. I respectfully contend that the Court should not allow a conviction of murder of the first degree carrying the death penalty to stand upon the testimony of a self-confessed murderer and accomplice unless the corroborative circumstances of the case point directly to the guilt of the defendant.

"I know that this proposition is at variance with the expressed opinion of eminent jurists of this State for whom I have great respect; but this Honorable Court has not, so far as I have been able to discover, laid down any specific doctrine respecting this class of testimony and I wish before it does, to urge the doctrine that no man's life should be taken upon testimony of a self-confessed murderer and accomplice unless the same be corroborated in such material circumstances as tend directly to establish the guilt of the accused."

POINT VI.

Cause of Reversal 17.

The learned trial Court should have granted defendant's motion for a new trial, because of the misconduct of the jury during the trial (affidavits, pages 799 to 822). The jury was allowed to take an automobile trip out in the county and was separated in four automobiles. A chauffeur and constable were in each automobile with three jurors making eight outsiders who conversed and associated in close contact with the jury for the greater part of the afternoon. On this automobile trip the cemetery, where the money was hidden after the murder, was drawn to the attention of a part of the jury, page 802, page 809, and page 800, by either the chauffeur or one of the jurymen. The Broadway Trust Company was also drawn to the attention of a part of the jury, page 802. Both sides submitted affidavits on this motion but I contend that the undisputed facts bear out the version of facts above stated.

State vs. Ungar, 111 Atl. Rep., page 37.

Chief Justice Beasley said in *State vs. Cucuel*, 2 Vr. page 252.

> "What, then, is the power of the Court over the jury in capital cases, during its adjournments, while the trial is in progress?
>
> "It is clear that from the earliest times, as far back as tradition itself extends, it was a part of the method of proceeding, in the system of the English law, in all capital cases to sequester the jury, to a certain extent, from the rest of the

community. No one acquainted with the subject will deny that this practice prevailed for many successive ages, and so far as is known to me, it has never been departed from by any English judicature. In this State, almost from the epoch of its settlement by our ancestors to the present moment, as we are informed by history, both printed and oral, the same formula has been observed. From these admitted incidents then, it would seem to be incontestably plain, that the formula itself is invested with every possible claim, to be considered a part of that legal system which this Court is bound to sustain and administer. It is not a matter of unsubstantial form, but one of the means provided by the law, to reach the result of a verdict founded exclusively on the evidence delivered in open court in the presence of the parties. It is, therefore, as much a right of the defendant as is any other act which the law requires, by immemorial usage, to be performed at the trial. It is altogether impossible to admit the right of the Court, at its pleasure, to waive the performance of this act. If the seclusion of the jury can be dispensed with before the charge of the Court, why not dispense with it after such charge?"

Did the jury not receive evidence out of court and out of the presence of the defendant? Can there be any doubt but that the verdict in a capital case must be founded exclusively on the evidence delivered in open court in the presence of defendant?

Respectfully submitted,

JAMES RUSSELL CARROW,
Attorney for and of Counsel with Plaintiff-in-Error.